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NATIONAL ARCHIVES MICROFILM PUBLICATIONS

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RECORDS OF THE UNITED STATES

NUERNBERG WAR CRIMES TRIALS

UNITED STATES OF AMERICA V. KARL BRANDT ET AL. (CASE I)

NOVEMBER 21, 1946-AUGUST 20, 1947

Roll 9

Transcript Volumes (English Version)

Volumes 22-24  
May 22-June 14, 1947



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## INTRODUCTION

On the 46 rolls of this microfilm publication are reproduced the records of Case I (*United States of America v. Karl Brandt et al.*, or the "Medical" Case), 1 of the 12 trials of war criminals conducted by the U.S. Government from 1946 to 1949 at Nuernberg subsequent to the International Military Tribunal held in the same city. These records consist of German- and English-language versions of official transcripts of court proceedings, prosecution and defense briefs, and final pleas of the defendants as well as prosecution and defense exhibits and document books in one language or the other. Also included in this publication are a minute book, the official court file, order and judgment books, clemency petitions, and finding aids to the documents.

The transcripts of this trial, assembled in 2 sets of 30 bound volumes (1 set in German and 1 in English), are the recorded daily trial proceedings. The prosecution and defense briefs and answers are also in both languages but unbound, as are the final pleas of the defendants delivered by counsel or defendants and submitted by the attorneys to the court. The unbound prosecution exhibits, numbered 1-570, are essentially those documents from various Nuernberg record series offered in evidence by the prosecution in this case. The defense exhibits, also unbound, are predominantly affidavits by various persons. They are arranged by name of defendant and thereunder numerically. Both prosecution document books and defense document books consist of full or partial translations of exhibits into the English language. Loosely bound in folders, they provide an indication of the order in which the exhibits were presented before the tribunal.

The minute book, in one bound volume, is a summary of the transcripts. The official court file, in four bound volumes, includes the progress docket, the indictment, amended indictment, and the service thereof; appointments and applications of defense counsel and defense witnesses and prosecution comments thereto; defendants applications for documents; motions; uniform rules of procedures; and appendixes. The order and judgment books, in two bound volumes, represent the signed orders, judgments, and opinions of the tribunal as well as sentences and commitment papers. Clemency petitions of the defendants, in five bound volumes, were directed to the military governor, the Judge Advocate General, the U.S. district court, the Secretary of Defense, and the Supreme Court of the United States. The finding aids summarize transcripts, exhibits, and the official court file.

Case I was heard by U.S. Military Tribunal I from November 21, 1946, to August 20, 1947. The records of this case, as the

# NATIONAL ARCHIVES MICROFILM PUBLICATIONS

records of the other Nuernberg and Far East (IMTPE) war crimes trials, are part of the National Archives Collection of World War II War Crimes Records, Record Group 238.

The Brandt case was 1 of 12 separate proceedings held before several U.S. Military Tribunals at Nuernberg in the U.S. Zone of Occupation in Germany against officials or citizens of the Third Reich, as follows:

<u>Case No.</u>	<u>United States v.</u>	<u>Popular Name</u>	<u>No. of Defendants</u>
1	<i>Karl Brandt et al.</i>	Medical Case	23
2	<i>Erhard Milch</i>	Milch Case (Luftwaffe)	1
3	<i>Josef Altstoetter et al.</i>	Justice Case	16
4	<i>Oswald Pohl et al.</i>	Pohl Case (SS)	18
5	<i>Friedrich Flick et al.</i>	Flick Case (Industrialist)	6
6	<i>Carl Krauch et al.</i>	I. G. Farben Case (Industrialist)	24
7	<i>Wilhelm List et al.</i>	Hostage Case	12
8	<i>Ulrich Greifelt et al.</i>	RuSHA Case (SS)	14
9	<i>Otto Ohlendorf et al.</i>	Einsatzgruppen Case (SS)	24
10	<i>Alfried Krupp et al.</i>	Krupp Case (Industrialist)	12
11	<i>Ernst von Weizsaecker et al.</i>	Ministries Case	21
12	<i>Wilhelm von Leeb et al.</i>	High Command Case	14

Authority for the proceedings of the International Military Tribunal against the major Nazi war criminals derived from the Declaration on German Atrocities (Moscow Declaration) released November 1, 1943, Executive Order 9547 of May 2, 1945, the London Agreement of August 8, 1945, the Berlin Protocol of October 6, 1945, and the Charter of the International Military Tribunal.

Authority for the 12 subsequent cases stemmed mainly from Control Council Law 10 of December 20, 1945, and was reinforced by Executive Order 9679 of January 16, 1946; U.S. Military Government Ordinances Nos. 7 and 11 of October 18, 1946, and February 17, 1947, respectively; and U.S. Forces, European Theater General Order 301 of October 24, 1946. The procedures applied by U.S. Military Tribunals in the subsequent proceedings were patterned after those of the International Military Tribunal and further developed in the 12 cases, which required over 1,200 days of court sessions and generated more than 330,000 transcript pages.

The crimes charged in the Brandt case consisted largely of medical experiments performed on defenseless concentration camp inmates against their will; "euthanasia" carried out on the mentally defective, the physically sick, the aged, and ethnic and racial groups; and the murder of concentration camp inmates for the express purpose of collecting skulls and skeletons for the Anatomical Institute of the Reich University of Strassburg. The following medical experiments were conducted:

1. High altitude: to investigate effects of low pressure on persons.
2. Freezing: to test human resistance to extremely low temperatures.
3. Malaria: to develop controls over the recurring nature of the disease.
4. Mustard gas: part of a general research program in gas warfare.
5. Sulfanilamide: to test the efficacy of the drug in bone muscle and nerve regeneration and bone transplantation.
6. Seawater: to test methods of rendering seawater potable.
7. Epidemic jaundice: to develop an antitoxin against the disease.
8. Sterilization: to test techniques for preventing further propagation of the mentally and physically defective.
9. Typhus: to investigate the value of various vaccines.
10. Poison: to test the efficacy of certain poisons.
11. Incendiary bomb: to find better treatment for phosphorus burns.

The prosecution alleged and the judgment confirmed that these experiments were not isolated acts of individual doctors and scientists on their own responsibility but that they were the result of high-level policy and planning. They were carried out with particular brutality, often disregarding all established medical practice. Consequently, large numbers of the victims died in the course of or as a result of the experiments.

The euthanasia program was the direct result of a directive by Hitler of September 1, 1939. It resulted in the secret killing not only of aged, insane, incurably ill, and deformed German citizens in sanatoriums in Germany but also in the clandestine murder of foreign workers. The killing in gas chambers and by injections in the sanatoriums served as a proving ground for these forerunners of much larger installations in the mass extermination camps.

In addition to these experiments, over 100 concentration camp inmates were killed for the purpose of obtaining their skeletons. Their ghastly remains were found in Strassburg by Allied troops.



## NATIONAL ARCHIVES MICROFILM PUBLICATIONS

The transcripts of the Brandt case include the indictments of the following 23 persons all of whom were physicians except defendants Rudolf Brandt, Viktor Brack, and Wolfram Sievers:

Karl Brandt: Personal physician to Adolf Hitler, Gruppenfuehrer in the SS and Generalleutnant (Major General) in the Waffen SS, Reichskommissar fuer Sanitaets- und Gesundheitswesen (Reich Commissioner for Health and Sanitation), and member of the Reichsforschungsrat (Reich Research Council).

Kurt Blome: Deputy [of the] Reichsgesundheitsfuehrer (Reich Health Leader) and Plenipotentiary for Cancer Research in the Reich Research Council.

Rudolf Brandt: Standartenfuehrer (Colonel) in the Allgemeine SS, Persoenlicher Referent von Himmler (Personal Administrative Officer to Reichsfuehrer SS Himmler), and Ministerial Counselor and Chief of the Ministerial Office in the Reich Ministry of the Interior.

Joachim Mrugowsky: Oberfuehrer (Senior Colonel) in the Waffen SS, Oberster Hygieniker, Reichsarzt SS und Polizei (Chief Hygienist of the Reich Physician SS and Police), and Chef des Hygienischen Institutes der Waffen SS (Chief of the Hygienic Institute of the Waffen SS).

Helmut Poppendick: Oberfuehrer in the SS and Chef des Persoenlichen Stabes des Reichsarztes SS und Polizei (Chief of the Personal Staff of the Reich Physician SS and Police).

Wolfram Sievers: Standartenfuehrer in the SS, Reich Manager of the "Ahnenerbe" Society and Director of its Institut fuer Wehrwissenschaftliche Zweckforschung (Institute for Military Scientific Research), and Deputy Chairman of the Managing Board of Directors of the Reich Research Council.

Karl Genzken: Gruppenfuehrer in the SS and Generalleutnant in the Waffen SS and Chef des Sanitaetsamts der Waffen SS (Chief of the Medical Department of the Waffen SS).

Karl Gebhardt: Gruppenfuehrer in the SS and Generalleutnant in the Waffen SS, personal physician to Reichsfuehrer SS Himmler, Oberster Kliniker, Reichsarzt SS und Polizei (Chief Surgeon of the Staff of the Reich Physician SS and Police), and President of the German Red Cross.

Viktor Brack: Oberfuehrer in the SS and Sturmbannfuehrer (Major) in the Waffen SS and Oberdienstleiter, Kanzlei des Fuehrers der NSDAP (Chief Administrative Officer in the Chancellery of the Fuehrer to the NSDAP).

## NATIONAL ARCHIVES MICROFILM PUBLICATIONS

Waldemar Hoven: Hauptsturmfuehrer (Captain) in the Waffen SS and Chief Physician of the Buchenwald Concentration Camp.

Herta Oberheuser: Physician at the Ravensbrueck Concentration Camp and assistant physician to the defendant Gebhardt at the hospital at Hohenlychen.

Fritz Fischer: Sturmbannfuehrer in the Waffen SS and assistant physician to the defendant Gebhardt at the hospital at Hohenlychen.

Siegfried Handloser: Generaloberstabsarzt (Lieutenant General, Medical Service), Heeressanitaetsinspekteur (Medical Inspector of the Army), and Chef des Wehrmachtsanitaetswesens (Chief of the Medical Services of the Armed Forces).

Paul Rostock: Chief Surgeon of the Surgical Clinic in Berlin, Surgical Adviser to the Army, and Amtschef der Dienststelle Medizinische Wissenschaft und Forschung (Chief of the Office for Medical Science and Research) under the defendant Karl Brandt, Reich Commissioner for Health and Sanitation.

Oskar Schroeder: Generaloberstabsarzt; Chef des Stabes, Inspekteur des Luftwaffe-Sanitaetswesens (Chief of Staff of the Inspectorate of the Medical Service of the Luftwaffe); and Chef des Sanitaetswesens der Luftwaffe (Chief of the Medical Service of the Luftwaffe).

Hermann Becker-Freyseng: Stabsarzt in the Luftwaffe (Captain, Medical Service of the Air Force) and Chief of the Department for Aviation Medicine of the Medical Service of the Luftwaffe.

Georg August Weltz: Oberfeldarzt in the Luftwaffe (Lieutenant Colonel, Medical Service of the Air Force) and Chief of the Institut fuer Luftfahrtmedizin (Institute for Aviation Medicine) in Munich.

Wilhelm Beiglboeck: Consulting physician to the Luftwaffe.

Gerhard Rose: Generalarzt of the Luftwaffe (Brigadier General, Medical Service of the Air Force); Vice President, Chief of the Department for Tropical Medicine, and Professor of the Robert Koch Institute; and Hygienic Adviser for Tropical Medicine to the Chief of the Medical Service of the Luftwaffe.

Siegfried Ruff: Director of the Department for Aviation Medicine at the Deutsche Versuchsanstalt fuer Luftfahrt (German Experimental Institute for Aviation).

## NATIONAL ARCHIVES MICROFILM PUBLICATIONS

Hans Wolfgang Romberg: Physician on the staff of the Department for Aviation Medicine at the German Experimental Institute for Aviation.

Konrad Schaefer: Physician on the staff of the Institute for Aviation Medicine in Berlin.

Adolf Pokorny: Physician, specialist in skin and venereal diseases.

The indictment consisted of four counts. Count one charged participation in a common design or conspiracy to commit war crimes or crimes against humanity. The ruling of the tribunal disregarded this count, hence no defendant was found guilty of the crime charged in count one. Count two was concerned with war crimes and count three, with crimes against humanity. Fifteen defendants were found guilty, and eight were acquitted on these two counts. Ten defendants were charged under count four with membership in a criminal organization and were found guilty.

The transcripts also contain the arraignment and plea of each defendant (all pleaded not guilty), opening and closing statements of defense and prosecution, and the judgment and sentences, which acquitted 7 of the 23 defendants (Blome, Pokorny, Romberg, Rostock, Ruff, Schaefer, and Weltz). Death sentences were imposed on defendants Brack, Karl Brandt, Rudolf Brandt, Hoven, Gebhardt, Mrugowsky, and Sievers, and life imprisonment on Fischer, Genzken, Handloser, Rose, and Schroeder; varying terms of years were given to defendants Becker-Freyseng, Beiglboeck, Oberheuser, and Poppendick.

The English-language transcript volumes are arranged numerically, 1-30; pagination is continuous, 1-11538. The German-language transcript volumes are numbered 1a-30a and paginated 1-11756. The letters at the top of each page indicate morning, afternoon, and evening sessions. The letter "C" designates commission hearings (to save court time and to avoid assembling hundreds of witnesses at Nuernberg, in most of the cases one or more commissions took testimony and received documentary evidence for consideration by the tribunals). Several hundred pages are added to the transcript volumes and given number plus letter designations, such as page number 1044a. Page 1 in volume 1 (English) is preceded by pages numbered 001-039, while the last page of volume 28 (English) is followed by pages numbered 1-48.

Of the many documents assembled for possible prosecution use, 570 were chosen for presentation as evidence before the tribunal. These consisted largely of orders, directives, and reports on medical experiments or the euthanasia program; several interrogation reports; affidavits; and excerpts from the *Reichsgesetzblatt* (the official gazette of Reich laws) as well as correspondence. A number



# NATIONAL ARCHIVES MICROFILM PUBLICATIONS

of the medical reports were accompanied by series of photographs and charts of various experiments.

The first item in the arrangement of the prosecution exhibits is usually a certificate listing the document number, a short description of the exhibit, and a statement on the location of the original document of the exhibit. The certificate is followed by the document, the actual prosecution exhibit (most of which are photostats), and a few mimeographed articles with an occasional carbon of the original. In rare cases the exhibits are followed by translations or additional certificates. A few exhibits are original documents, such as:

<u>Exhibit No.</u>	<u>Doc. No.</u>	<u>Exhibit No.</u>	<u>Doc. No.</u>
301	NO-1314	410	NO-158
307	NO-120	441	NO-1730
309	NO-131	443	NO-890
310	NO-132	451	NO-732
357	1696 PS	462	NO-1424
362	628 PS	507	NO-365
368	NO-817	546	NO-3347
403	616 PS		

No certificate is attached to several exhibits, including exhibits 433, 435-439, 462, 559, and 561. Following exhibit 570 is a tribunal exhibit containing the interrogation of three citizens of the Netherlands. Number 494 was not assigned, and exhibit 519 is followed by 519a and 519b.

Other than affidavits, the defense exhibits consist of newspaper clippings, reports, personnel records, *Reichsgesetzblatt* excerpts, and other items. There are 901 exhibits for the defendants. The defense exhibits are arranged by name of defendant and thereunder by exhibit number, each followed by a certificate wherever available.

The translations in the prosecution document books are preceded by indexes listing prosecution document numbers, biased descriptions, and page numbers of the translation. They are generally listed in the order in which the prosecution exhibits were introduced into evidence before the tribunal. Pages 81-84 of prosecution document book 1 are missing. Books 12, 16, and 19 are followed by addenda. The document books consist largely of mimeographed pages.

The defense document books are similarly arranged. Each book is preceded by an index giving document numbers, description, and page number for each exhibit. The corresponding exhibit numbers are generally not provided. There are several unindexed supplements to numbered document books. Prosecution and defense briefs are arranged alphabetically by names of defendants; final pleas and defense answers to prosecution briefs follow a similar

## NATIONAL ARCHIVES MICROFILM PUBLICATIONS

scheme. Pagination is consecutive, yet there are many pages where an "a" or "b" is added to the numeral.

The English-language final pleas, closing briefs, and replies to prosecution briefs of several defendants are missing, as are a few German-language closing briefs and replies to prosecution briefs.

At the beginning of roll 1 are filmed key documents from which Tribunal I derived its jurisdiction: the Moscow Declaration, U.S. Executive Orders 9547 and 9679, the London Agreement, the Berlin Protocol, the Charter of the International Military Tribunal, Control Council Law 10, U.S. Military Government Ordinances 7 and 11, and U.S. Forces, European Theater General Order 301. Following these documents of authorization is a list of the names and functions of the members of Tribunal I and counsels.

These documents are followed by the transcript covers giving such information as name and number of case, volume numbers, language, page numbers, and inclusive dates. They are followed by summaries of the daily proceedings providing an additional finding aid for the transcripts. The exhibits are listed in an index, which notes type of exhibit, exhibit number and name, corresponding document number and document book and page, a short description of the exhibit, and the date when it was offered in court. The official court file is indexed in the court docket, which is followed by a list of witnesses.

Not filmed were records duplicated elsewhere in this microfilm publication, such as prosecution and defense document books in the German language that are largely duplications of prosecution and defense exhibits already microfilmed or opening statements of prosecution and defense, which can be found in the transcripts of the proceedings.

The records of the Brandt case are closely related to other microfilmed records in Record Group 238, specifically prosecution exhibits submitted to the International Military Tribunal, T988; NI (Nuernberg Industrialist) Series, T301; NOKW (Nuernberg Armed Forces High Command) Series, T1119; NG (Nuernberg Government) Series, T1139; and records of the Milch case, M888, the List case, M893, the Greifelt case, M894, and the Ohlendorf case, M895. In addition, the record of the International Military Tribunal at Nuernberg has been published in *Trial of the Major War Criminals Before the International Military Tribunal* (Nuernberg, 1947), 42 vols. Excerpts from the subsequent proceedings have been published as *Trials of War Criminals Before the Nuernberg Military Tribunal Under Control Council Law No. 10* (U.S. Government Printing Office: 1950-53), 15 vols. The Audiovisual Archives Division of the National Archives and Records Service holds motion picture records and photographs of all 13 trials and tape recordings of the International Military Tribunal proceedings.



NATIONAL ARCHIVES MICROFILM PUBLICATIONS

John Mendelsohn wrote these introductory remarks and arranged the records for microfilming in collaboration with George Chalou.

NATIONAL ARCHIVES MICROFILM PUBLICATIONS

Roll 9

Target 1

Volume 22

May 22-June 2, 1947

NATIONAL ARCHIVES MICROFILM PUBLICATIONS

# **OFFICIAL RECORD**

## **UNITED STATES MILITARY TRIBUNALS NURNBERG**

**CASE No. 1    TRIBUNAL I  
U.S. vs KARL BRANDT et al  
VOLUME    22**

**TRANSCRIPTS  
(English)**

**22 May - 2 June 1947    pp. 7955-8399**

Official Transcript of the American Military  
Tribunal I in the matter of the United States  
of America against Karl Brandt, et al,  
defendants, sitting at Nurnberg, Germany on  
22 May 1947, 0930, Justice Beals presiding.

THE MARSHAL: Persons in the court room will please find their  
seats.

The Honorable, the Judges of Military Tribunal I.

Military Tribunal I is now in session. God save the United States  
of America and this Honorable Tribunal.

There will be order in the court room.

THE PRESIDENT: Mr. Marshal, will you ascertain that the defendants  
are all present in court?

THE MARSHAL: May it please your Honor, all the defendants are  
present in the court.

THE PRESIDENT: The Secretary-General will note for the record the  
presence of all the defendants in court.

Counsel may proceed.

MR. HARDY: May it please the Tribunal, it has been called to my  
attention by defense counsel that next Sunday and Monday are German  
holidays, namely, Whitsuntide. The defense counsel desires to have the  
court adjourn on Monday that they may observe this holiday.

THE PRESIDENT: That, I understand, is this coming Monday?

MR. HARDY: That is the 26th.

THE PRESIDENT: The Tribunal would be inclined to heed the request  
of defense counsel if they desire that Whitsun Monday be observed as a  
holiday. The Tribunal will cooperate with them and hold no session next  
Monday.

Do you know what the other Tribunals have done in connection with  
this matter?

MR. HARDY: I understand that Tribunal No. 2 downstairs will have  
no session on Monday as to the decision of the other Tribunals, I  
believe the Tribunal wherein Defendant Flick is being tried is having  
no session on Monday.

THE PRESIDENT: Tribunal will recess tomorrow evening until Tuesday morning in compliance with the request proffered by defense counsel.

Counsel may proceed.

HERMANN BECKER-FREYSING - Resumed

DIRECT EXAMINATION (Continued)

DR. TIPP (Counsel for the Defendant Becker-Freysing): Mr. President, some technical remarks first. My colleague, Dr. Marx, has returned today and has recovered sufficiently in order to again take over the case of his client, Dr. Becker-Freysing. For technical reasons we have decided that I finish the question of typhus and yellow fever, and I think that after the morning recess Dr. Marx will come in and take over the sea-water case.

THE PRESIDENT: Any arrangement satisfactory to the Defendant Becker-Freysing and his counsel will be approved by the Tribunal. Dr. Marx may resume his active position as defense counsel when it is agreeable to him and to you.

DR. TIPP: Thank you, your Honor.

BY DR. TIPP:

Q Doctor Becker when we concluded yesterday we had arrived at the question of the Chief of the Medical Department of the Research Institute who the Prosecution asserts was. I think you have clarified this point sufficiently and shall now pass over to another point upon which we have already touched on at one time. I want to talk about the material which you found in your Report regarding Haagen's work. If I remember correctly, you said that you only remember interim reports from Haagen. In that connection, however, I have to put to you a document from the Prosecution from which I think they concluded that you also had knowledge of Haagen's final report. This is Prosecution document from Book 12, on page 88 in the English copy. It was submitted under Document Number NO 123, and bears the date 9 May, and the Exhibit Number 303. It is a letter written by Dr. Haagen to the Hauptamt SS through Professor Dr. Kirt, Anatomical Institute of the Reich University Strasbourg. The letter starts, and I quote;



"I enclose herewith a carbon copy of a paper on our experiments with a dry typhus vaccine. The paper was sent as a manuscript to the Chief of the Luftwaffe Medical Service with the request for permission to publish it."

Obviously it is a final report of Haagen's in the form of a scientific publication, which was subsequently submitted to the Chief of the Medical Service of the Luftwaffe. Since we are here concerned with a research matter, I assume that the Prosecution will charge you with having had knowledge of this report. Did you know of this report or do you remember it?

A I do not remember this final report of Haagen. However, let me point to a number of matters in that connection. It becomes clear in this document presented by the Prosecution what I have already said about the reports made by the researchers who have received research assignments by the Chief of the Luftwaffe Medical Service. I said that the researchers mostly submitted their final reports in the form of manuscripts or in the form of reprints. Haagen says here specifically the paper was sent, the manuscript, for permission to publish it. Professor Haagen was a researcher and certainly wasn't as well familiar with the bureaucratic regulations as I, since I sat at a desk for almost five years in a bureaucratic agency. Just as there was no Hauptamt SS, such as is mentioned in this document, the work of medical officers of the Luftwaffe did not have to be submitted to the chief for approval. That at any rate was not true in the year of 1944. The agency which carried out, and which had to carry out the censorship of scientific work before its publication was the Lecture Unit for Science and Research at the Medical Academy of the Luftwaffe. This agency, to be sure, sent the purely aviation medical papers to the Referat Aviation Medicine for its information. All other papers, however, were not sent to the Referat Aviation Medicine but was handled by the Lecture Unit for Science and Research alone.

Perhaps it was sometimes sent to the consulting specialists for their attitude on that work. I may point to what Professor Rose testified in this witness stand. He said that he had read that paper and that he assumed a position on it. Furthermore, let me point to the document of the prosecution, NO-128, Exhibit 307, page 97 of the German and page 95 of the English Document Book 12. This is a letter by the Medical Academy of the Luftwaffe, which I just mentioned, Lecture Unit for Science and Research, and constitutes the reply to Haagen's request in order to permit the publication of his paper as it is mentioned in the document before us. Since file references seem to play such a considerable part here, I may also draw your attention to that. This is file reference #5, which concerns all published literature. At no time was the file reference #5 handled by the Referat Aviation Medicine. In addition, it becomes evident from this letter that the work had been sent back to Dr. Haagen.

Q Witness, you are now speaking about the last document which you just cited?

A Yes, I am speaking about Document NO-128, Exhibit 307. It says here "Annex - one manuscript, two copies". That Haagen sent more than two copies of this manuscript is highly improbable. It is thus very improbable that the Lecture Unit for Science and Research had sent a copy of this manuscript to the research files, for instance; but even assuming that this rather impossible situation was true, I may add that if Professor Luxemburger, who was the director of this Lecture Unit, when censoring that work, had not had the suspicion that it dealt with something inadmissible, I am sure that no such suspicion would have arisen within me. Apart from that, I certainly would have hardly read any such specialized bacteriological paper from the beginning to the end since neither I nor anyone else in the world would have derived any benefit from that.

Q Witness, you were just speaking of the Document NO-128, this letter by the Medical Academy of the Luftwaffe, dated the 7th of July,

and you mentioned the name of Dr. Luxemburger. There is no such signature in the German document book and since I have not received the photostat copy I don't know whether any such signature is apparent in the English document book. I assume, however, that the original document does bear that signature. If then the Tribunal may have any doubts as to whether this document was actually signed by Dr. Luxemburger, I would ask the General Secretary to submit the photostat copy of the original to the Tribunal. Unfortunately, I was not in a position to obtain the photostat copy in the Information Center. It had been given out somewhere and I couldn't ascertain to whom.

THE PRESIDENT: If Counsel will inform the Secretary General - the Clerk is absent at present - that the Tribunal desires that this document, the original photostat be produced before the Tribunal, the Tribunal will be obliged.

BY DR. TIFF:

Q Yes, Mr. President.

In this connection, Mr. President, let me offer as the next document the Becker-Freysong Document #37 from Document Book #3. This can be found on Pages 156 to 158 of the Document Book and is an affidavit by the just mentioned Professor Dr. Luxemburger, dated the 24th of February, 1947. I shall quote briefly from this document.

THE PRESIDENT: What exhibit number do you assign to this?

BY DR. TIFF:

Q This will receive the Exhibit number Becker-Freysong 23.

Professor Luxemburger states, after the customary introductory formula:

"At present I am a nerve specialist at Munich, and consulting psychiatrist at the Catholic Institute for the Care of the Young."

"Until 1941 I worked at the German Institute for Psychiatric Research, the Kaiser Wilhelm Institute attached to the University of Munich. As I was considered politically unreliable by the Nazis, I had to leave this institute in 1941. In January, 1944, I was drafted to the



German Luftwaffe, at first as an Assistant Physician. After having been with the Medical Inspectorate of the German Luftwaffe in Berlin until 1944, as a psychiatrist, I became Instruction Group Commander at the Luftwaffe Medical Academy in Berlin in the summer of 1944, and at the same time, consulting psychiatrist under the Chief of the Luftwaffe Medical Service, with the rank of Oberstarzt."

The rest of Dr. Luxemburger's fate during the war does not interest us in that connection and I shall therefore skip the next few sentences. I shall continue to quote from paragraph 2 on page 2 of that document:

"Each medical-scientific work to be published as medical literature had to be submitted when ready for printing, to the Instruction Group of the Luftwaffe Medical Academy of which I was Chief. The checking, insofar as it was done by me, was carried out in the case of non-psychiatric works only from a military point of view. Special experts approved them as to their scientific content. The author of the work was informed, of the expert's criticism in full or in part, in a letter of approval or rejection, which I signed.

"3. Generally, these manuscripts did not have to be submitted to the Chief of the Luftwaffe Medical Service. Only works in the field of aviation medicine were regularly submitted to the office of 'Chief of the Medical Service'. The other works were only checked from the medical point of view by the appropriate consultants or other experts.

"4. From none of the manuscripts which were ever submitted to me in the course of my duties could I gather or assume that human experiments were being carried out on concentration camp inmates or, in any case, on persons who were unwilling to act as subjects. Although my checking of non-psychiatric manuscripts extended only to military formalities and I could not judge them as an expert, I still think that clear and distinct reports on experiments which had been carried out forcibly would have struck me."

There follows the signature on that document and the certification.

Witness, let us now go over to another point. Let us turn to the research list which has been so often mentioned here. This is Document NO-934, Prosecution Exhibit 458. The document is not contained in a document book. It was submitted to Professor Schroeder during his cross-examination. In this research list there are contained the research assignments by the Chief of the Medical Service of the Luftwaffe and Research Guidance of the Reich Ministry for Aviation and Supreme Commander of the Luftwaffe. As the reviser the Stabsarzt Dr. Becker-Freyse is mentioned. On page 7 of that document under IV we find the title "Hygiene." Under 2 we find the assignment to Mr. Haagen. Let us quote this short paragraph:

"The manufacture of typhus vaccine (secret). Hygienic Institute, Strasbourg, Oberstabsarzt Professor Dr. Haagen."

Witness, you know that the prosecution maintained and concluded during the cross-examination of Professor Schroeder that since this research assignment was kept secret there must have been some valid reason to keep it so, and the prosecution naturally assumes that the Medical Inspectorate knew that Haagen was carrying out experiments on human beings which, therefore, had to be kept secret. I have already discussed this list with Mr. Ruff on the 29th of April, 1947, on page 6716 of the German and 6622 of the English record. Since you are listed here as the expert dealing with that list I must ask you to give us your opinion about it and, in particular, why this research given to Dr. Haagen is listed as secret.

Court I

A. Well, let me say at first that all the documents which have so far been submitted by the Prosecution regarding Haagen's research assignment have shown time and again that this assignment was entirely open to the outside world. Now, suddenly we see this research assignment is secret. I cannot remember that this research assignment was suddenly changed over to a secret one, but perhaps Professor Haagen personally will be able to talk about that when he takes the witness stand.

Q. Let me interpolate a question in order to clarify this point: since you were the expert in that case, did you give a directive to whoever was compiling this list to insert this assignment as secret or did you previously issue a general directive that this assignment be converted from open to secret?

A. If anyone could have done any such thing this could only have been done by my department chief. I could have made a suggestion to that effect, but the research assignment had been issued a long time ago, and this would have been a subsequent change in the Summer of 1944, which I cannot remember.

Q. At any rate, you don't know, witness, how this word "secret" was inserted?

A. It is remarkable that the next assignment by Haagen, namely the manufacture of a yellow fever vaccine, is also designated as "secret" here. The Prosecution itself has submitted a document here which we shall later discuss, that this assignment for the manufacture of a yellow fever vaccine was stopped by the Medical Inspectorate of the Luftwaffe in the summer of 1943.

Q. For purposes of clarification I may say that the document which was just mentioned by the witness as the



Court I

Prosecution Document NO.-297, Exhibit 16, and it can be found in Document Book 12 on page 112 of the German and the English text. As you were already saying, Dr. Becker, we shall revert to this document when discussing the yellow fever experiments.

A. Now, in the document which you have just designated it becomes evident that this assignment for the production of a yellow fever vaccine very clearly was a non-secret matter. In addition, not even the prosecution has asserted that subsequent to 1942 yellow fever experiments on human beings were carried out. If in the year 1944 this assignment, which had been stopped in 1943, is really designated as secret, then it either constitutes an error or there were certain reasons for that which certainly cannot indicate the planning or the execution of any experiments on human beings. But now let us turn to the yellow fever vaccine assignment itself. Unfortunately it is not known to me where the Prosecution received this document from. It bears no signature, the person who sent it is not mentioned, no recipient is mentioned, and it is quite impossible to conclude from where this list originated. I remember exactly that in the course of the summer of 1944 a similar list had been compiled, in my Referat. It was the ordinary list of all research assignments, which was usually available in the Referat and which had merely been brought up to date. Since I, in the meantime, had taken over Dr. Senzinger's work in the Research Guidance of the RLM, the medical research assignments of the Research Guidance of the RLM were also included in the list. The list, or the supplementation of the old list in its form as it is before us, was compiled by my instructing my secretary, who was in the Research Guidance office in Berlin, to come out to Saalow for a period of 2 or 3 days, which was about 15 kilometers outside Berlin, and I gave her all the research files,

Court I

the entire material under file reference 55, and on the basis of this material and the old list she carried out the new compilation, bringing the list up to date.

Q. If I understood you correctly - to return to the Haagen case - these were all the letter, reports, etc., filed at the Referat. I would imagine that all these documents were filed properly in one filed according to date, as it is customary in every army throughout the world?

A. The latter is true, but naturally these files were not kept in the Referat, but as is customary everywhere else these were kept in the Registration office. I, after all, only had one little office, and I hadn't enough room there to keep all my files in that office. Furthermore, I can remember that this list, in the course of the summer or fall of 1944 was sent upon request to various other agencies. I believe I remember that one such copy had been sent to the Reich Research Council, and I think it possible that one copy was also sent to the office of Herr Professor Rostock. It may be possible even that one copy was sent to the Office of Generaloberstabsarzt Handloser. I am sure there were a number of other offices too; however, I cannot tell you that in detail. When Dr. Ruff was sitting in this witness stand you discussed a number of errors with him contained in that list. In addition the errors were discussed with Ruff there are, in the allegedly true copy which is before us here, as well as in the photostat copy, a number of other errors.

Q. May I interrupt you briefly, witness. Did I understand you to say that even here, when compiling the documents for the document book and when mimeographing this document which is before us, a number of mistakes were made, typographical errors, which means that the photostat copy does not quite correspond to the allegedly true copy as it is contained in the document book before us?

Court I

A. Yes, that is just what I wanted to say.

Q. Well, in that case would you explain these errors to us?

A. Unfortunately, we only received the photostat copies only after you had discussed this allegedly true copy with Dr. Ruff. After only looking at the photostat for once I found out that all the errors which refer to the research assignments given to Dr. Ruff are not contained in the photostat copy, but that these are errors which resulted from the copying of that photostat copy when this "true copy" was made.

Q. If I understand you correctly, Witness, these are obviously pure mistakes in copying?

A. Yes, furthermore even in the photostat copy there are a number of mistakes caused by negligence, which, however, are all so striking to anyone who knows the subject as well as I, that upon the first reading of the document I guaranteed that I would have noticed them immediately. For instance, the name of Herr Professor Veltz ----



Q Now, let me ask you, witness, to speak slowly here and always mention where the point can be found in the document which you happen to be discussing.

A For instance, on page 2 of the document under 1-10, there is an assignment given to Professor Weltz. This name was copied as Weltze. This is obviously a very simple matter, but had I looked through this list in the year of 1944 I am sure this would have attracted my attention. Another mistake, which could easily occur in the case of a layman but which I should have noticed, can be found on page 10 of this document. Here, under VIII - 3, there is a research assignment mentioned and I may quote: "The significance of individual factors in measuring distances." The institute which obviously received this assignment is mentioned here as the institute for Physiological Anthropology of the University of Marburg/Lahn. In reality we are here concerned with the Institute for Psychological Anthropology, which is well known to me. In copying, the difference between "physiological" and "psychological" always causes great difficulties, and we have often had that experience when dealing with one another here and compiling our document books. psychiatric clinic has a collection of mutilations of its name, and the word "psychiatric" is very often misspelled,

MR. RABDY: I don't believe it is necessary to take up the time of the Tribunal on a insignificant matter such as this. If there are some errors in the German document books when it was mimeographed the defendant may call them to our attention. These are so insignificant and so minor that the Prosecution deems the documents may speak for themselves. The Prosecution resents some of the remarks of the defense.

THE PRESIDENT: It appears to the Tribunal that this matter may be corrected for the Tribunal by a conference between the defense and the Prosecution without taking up the time and covering the records with such matters.

DR. YIPP: I am naturally prepared to adhere to the wish of the Tribunal, but I believe that counsel for the Prosecution misunderstood

the aim I have pursued in this matter. I am not concerned with proving that the copy in the German document book contains mistakes, which are not in the photostat, but I am concerned in showing that in the photostat copy, in the original, there are already errors. This may sound somewhat like an argument, but I must clarify that it is our intention to prove that there are actual mistakes contained in the list, the list which the Defendant Becker-Freyseng had had compiled. Furthermore we want to prove that this list was not compiled by an expert, but only originated, as was already stated by the witness, from an unskilled and medically untrained typist who just copied something from some documents, and for that reason the inaccuracies are contained in the list. I think this is something that must be discussed with the witness and cannot be clarified by a mere discussion between the defense counsel and Prosecution. But, I think, witness, that we can adhere to the Tribunal's wish, and drop the matter.

MR. HARDY: I must point out that it is of no interest here what the capabilities of the secretary of Becker-Freyseng were. If she made the mistakes in the original list, it seems to me that is the negligence of the defendant in not checking the secretary's work.

THE PRESIDENT: The defendant, however, could show that the secretary did incorrectly transcribe what he had given her to copy or what he had dictated to her.

DR. TIFF: Mr. President, I am in a fortunate position to give you this proof in a minute. Witness, you heard the Tribunal's decision and you heard what I said, but I think that we are in full agreement. If you have something to say, would you please express yourself briefly.

THE WITNESS: In connection with the reprimand by the Prosecution, I must say I always was very careful in reading over what my secretary had written and I am sure that such silly and noticeable typing mistakes would have drawn my attention. There are a number of other mistakes contained in that list, for instance at one time Haagen's name was spelled with one "A" and once with two "A's." I am sure I would have



noticed that. I do not believe that this list is the same list which was typed by my secretary, which I am sure that I read through very carefully. I assume that we are here concerned with a copy.

BY DR. TIPP:

Q Do you mean that this document, which is before you now, is a copy of the original list, which you ordered to be compiled?

A Yes, this must be a copy made by one of the offices which received the original list from us. Furthermore, I may say that our secretaries were well versed on the difference between physiology and psychology after they had been with us for some time. This error may have occurred with new secretaries during their first few weeks, but not later. However, enough of that.

Q Let us finish then, Mr. President, in this connection let me offer a document from Document Book Becker-Freyseng 3. This is Document Becker-Freyseng 38 and can be found on page 159 to 161 of the document book. This will receive exhibit No. 24. It is an affidavit.

MR. HARDY: May it please, Your Honor, this document contains the same subject which the defendant has been discussing here for nearly fifteen minutes. The prosecution deems it irrelevant and I object to any further introduction of documents along these lines.

THE PRESIDENT: The Tribunal has not read the document. What is the probative value of the material offered in this document, counsel?

DR. TIPP: This can be settled briefly, Mr. President. This is the secretary who had typed and compiled the list by order of Becker-Freyseng, and she states how she compiled the list. She says that Becker-Freyseng gave her all the material for that list and that she could not see anything about experiments on human beings from this list. She furthermore says, it is quite possible that in her haste she overlooked some errors contained in the list. It is not my intention to quote anything from that document and I think Mr. Hardy is correct in saying that this point has been sufficiently clarified. Witness --

THE PRESIDENT: Just a moment, counsel.

DR. TIFF: Mr. President, I did not quite understand you. Mr. President, did you ask a question of me?

THE PRESIDENT: No, I just requested you to wait a few moments until we examine the document.

MR. HARDY: The whole gist of this seems to me to be as follows. This document NO-934 contains a list of the assignments which came from the office of Becker-Freyseng. Now, Becker-Freyseng is maintaining that this list is just a copy of the list which originated from his office and that his secretary made typographical errors and he points out that such errors are made like spelling the name of Waltz with two "E's" instead of one "E", etc. Now this document is introduced to show that the entry concerning the work of Haagen with typhus and after that entry is the number designating the word "secret". The prosecution has made an issue of the word "secret" and he is now attempting to introduce that she erroneously put down the word "secret." That is the gist of this entire affidavit and the context of this argument.

THE PRESIDENT: Is there available there in the original photostat of the Exhibit which came from the defendant's office?

DR. TIPP: Yes, Your Honor, I have the original photostat of that list.

MR. LARDY: The section in issue, Your Honor, is quite obviously in the photostat as checked in pencil marks.

THE PRESIDENT: If this No. 934 which is now in evidence?

DR. TIPP: Yes, Your Honor. Perhaps I may say in that connection that the defendant has not been asserting that the remark "secret" was erroneously transcribed but he says that he does not think that this photostat copy is a carbon copy of the original list but thinks that it is just a transcribed copy of the original. He thinks that there are two possibilities, one that his secretary, Miss Wagner, by mistake inserted the remark, or it crept into the original in some way; or it is further possible that the person who is unknown to us and who has transcribed the original list has made that error. It is in no way contested that the photostatic copy submitted here contains the remark "secret."

DR. SPRING: You are attempting to show that a list was made by this defendant's secretary and under his direction but that the list that was directed to be made by him on the one hand or that they actually have been made under his direction, did not list these projects as secret. Is that the thing you are trying to establish, that as a matter of fact they were open subjects?

DR. TIPP: Yes, according to our knowledge, Your Honor, the Haagen assignment was open. We have a wealth of letters

to Haagen and directed to Haagen which was material submitted to us by the Prosecution, which so far as they concern the Luftwaffe are always open, and now suddenly we have the remark "secret" from the year 1944, and we don't think that Haagen's assignment was suddenly converted into a secret one. I personally have another explanation, which, of course, cannot be proved, but may interest the Tribunal if I may mention it briefly. At one time we discussed the fact that all reports of cases of typhus had to be kept secret throughout the entire Wehrmacht. In other words, any typhus case which occurred anywhere in Germany had for military reasons to be reported as "secret". It is quite possible that Miss Wagner knew about this regulation and it is also possible that somebody else knew about this regulation and told her that since this concerns typhus the assignment must be secret. Since I myself was a soldier and had to deal with German military correspondence, I know it happens very often that something can become secret simply because somebody just at random put "secret" on a document. In my opinion that proves nothing at all. I think that too much significance is attached to this point and I only refer to it because the Prosecution seemed to have attached so much value to it. Otherwise, I certainly wouldn't have put that to Becker-Freyseng and asked him for half an hour about the significance of this little word "secret."

THE PRESIDENT: Exhibit No. 24 offered by defendant Becker-Freyseng will be admitted in evidence and the objection is overruled. Counsel may proceed.

DR. TIPP:

Q. Witness, we have now concluded the question of typhus. I have no further questions to you in that connection.



In conclusion, as the last document in the connection I may offer Becker-Freyseng No. 36, which is the last document in Becker-Freyseng document book No. 2. This will be Exhibit No. 26 and can be found on page 153 of the document book No. 2. This is an affidavit by a certain Dr. Halbach, which was made at the Chiemsee on the 27 January, 1947, and was certified in the proper way. I consider this document to be of considerable importance since it discusses a number of points with which the defendant is concerned. I may draw your attention to the fact that Dr. Halbach is a doctor of engineering and a doctor of medicine which means he is versed both in medical and technical matters. Under Paragraph 2 of Dr. Halbach described his career and says that he studied chemistry and medicine at the University of Munich and also states he was never a member of the NSDAP. I may quote from Paragraph 3:

"3) During the war I served from 1 September 1939 to 12 May 1940 as a service doctor with ground crew units of the Luftwaffe, from 13 May 1940 to 30 November 1942 with a Bomber Squadron; from 1 December 1942 to 31 August 1943, I was a specialist at the Institute of Aviation Medicine, and from 1 September 1943 to 3 October 1944 a specialist in the Medical Section of the Testing Station of the Luftwaffe, Rechlin.

"4) On 4 October 1944 I was transferred to the Instruction Group Science and Research of the Luftwaffe Medical Academy, the commander of which was Oberstarzt Prof. Dr. Hans Luxenburger.

"5) Dr. Becker Freyseng was at that time the only specialist in aviation medicine. Since this field of work could not possibly be dealt with by one man alone, part of the work was to be taken over by the Instruction Group Science and Research. About the end of October 1944, Dr. Becker Freyseng therefore handed over to me all the orders for research which had, up to then, been distributed by the Chief of the Medical Services of the Luftwaffe, together with the files, reports, etc. connected therewith. The Instruction Group Science and Research was, from this time on by order of the Chief of

the Medical Services of the Luftwaffe, to supervise the carrying out of these orders, since the consultant, Dr. Becker-Freyson, could not possibly accomplish this task of supervision, in view of the multitude of his other duties and of the increasing transportation difficulties. On the other hand, control had been rendered necessary by the strict regulations concerning the use of manpower and material.

"6) Among the files handed over to me were the order for research given to the Strassbourg hygienist Prof. Dr. Eugen Hagen. As far as I remember, they were concerned with the production of typhus, yellow fever and influenza vaccines. As far as I remember they were dated some years back (about 1940 or 1941), and, at Hagen's request, were extended annually. The order for the production of yellow fever vaccine was cancelled at the end of 1944 since there was no further demand for it.

"At the written request of Attorney Dr. Hans Marx I expressly declare that neither from the orders for research given to Prof. Hagen, which had been handed to me, nor from Hagen's reports on his activities in connection with these orders, nor from any information given to me either when these files were handed to me or on any other occasion have I been led, directly, or indirectly, to conclude that Hagen carried out human experiments in a concentration camp, which were concerned with artificial infection with typhus or with any other disease.

"7) The orders for research or production given to Prof. Hagen were of a purely bacteriological nature and were therefore actually dealt with by the appropriate consulting hygienist. The Aeroret of Aviation Medicine of which Dr. Becker-Freyson was a member, was not charged with the actual execution of the work in accordance with these research orders which did not come within the scope of "aviation

May 22-II-5K-5-2a-Cook (Int. Examiner)  
Court No. 1

medicine", but was only concerned with the formal, administrative, financial and supply questions connected with research assignment. All research orders bore the file number "55" which was a number allotted purely for filing purposes to the Aerostat of Aviation Medicine. This Aerostat had the reference number "2-II-..."

There follows the signature and the certification.



Witness, in conclusion of this question of typhus I may summarize that you have said that from a factual point of view you never had anything to do with dealing with typhus questions. Secondly, you said that up to the time you took over the Referat in the year of 1944 you had nothing at all to do with these research assignments in bacteriological fields, even formally. Thirdly that from no documents, from no conversations, and from no reports you received, did you know whether and to what extent experiments on human beings were carried out in connection with typhus and yellow fever, or anything else. Did I understand you correctly?

A. Yes, that is correct.

Q. Mr. President, there are only a few short questions in connection with yellow fever, of which the prosecution has made an issue. I think that I can finish that by 11:00 o'clock. I should be grateful to the Tribunal if they permitted me to conclude that question.

THE PRESIDENT: I think the Tribunal should follow its custom of taking a recess at this time. Counsel may proceed with the matter at 11:00 o'clock.

The Tribunal will now be in recess for a few minutes.

(A recess was taken)

THE PRESIDENT: The Tribunal is again in session.

THE PRESIDENT: The clerk will return this photostat to the counsel.  
Counsel may proceed.

Q. Dr. Becker, now we come to a few more points with which you are charged. You were accused orally with experiments in influenza. It was only mentioned. I have not been able to find any documents referring to influenza, therefore, I only ask you did you know of any experiments in the field of influenza at any time anywhere?

A. No.

Q. Witness, you are also charged with participation in experiments in cholera, typhoid, para-typhoid and similar things. The only document which the Prosecution has submitted on this subject —

MR. HARDY: May it please the Tribunal, to simplify the issue the Prosecution will at this time withdraw charges against Becker-Froyseng concerning yellow fever, smallpox, para-typhus A and B, cholera, and diphtheria, — not typhus.

THE PRESIDENT: The Secretary General will note for the record the withdrawal of these charges, and counsel for the Prosecution will file with the Secretary General and serve upon opposing counsel a written statement of the charges which are withdrawn.

MR. TIPP: May I ask, Mr. Hardy, do you also withdraw yellow fever?

MR. HARDY: Yellow fever, smallpox, para-typhus A & B, cholera, diphtheria.

MR. TIPP: Yellow fever is also withdrawn?

MR. HARDY: In other words, all the other charges to the defendant Becker-Froyseng, yellow fever, small pox, para-typhus A & B, cholera, diphtheria, and sulphanilamide which we withdrew before will be withdrawn by the Prosecution.

MR. TIPP: Mr. President, in view of this statement I have no further questions. The only point remaining for discussion is the change of sea water, and this will be dealt with by Dr. Marx, the

defendant counsel for Dr. Becker-Treysong.

I should like to give a brief technical explanation. The witness Haagen is here. I have been only able to talk to him briefly. I can say that he will be called as a defense witness for Dr. Schroeder and Becker-Freysong, after the examination of this defendant. I shall submit this in writing to the Secretary General.

THE PRESIDENT: Very well, counsel. Counsel for the defendant Becker-Freysang, Dr. Marx, may proceed.

BY DR. MARX:

Q With the permission of the Tribunal I shall now begin the examination of the defendant, Dr. Becker-Freysang, on the question of sea-water. Witness, we now come to the final charge against you. You are charged with special responsibility for and participation in the sea-water experiments carried out in the concentration camp Dachau, the experiments to test two procedures for making sea water drinkable. Witness, you were actually involved in planning experiments as a Referent; will you please tell the Tribunal how these experiments came about?

A The problem of combatting thirst in cases of distress at sea up until 1942 was not settled either in Germany or in any other country, at least not with much success. Just as in other countries, there was a small supply of water in the German emergency equipment, but it was inadequate in most cases. The office responsible for equipping airplanes with emergency equipment was that of the Technical Office of the Luftwaffe. When German planes were used in the Mediterranean area and over the Atlantic, the cases of distress at sea increased and also the cases of severe thirst and complaints from the crews.

In my previous testimony, I have already said that one of my main duties as Assistant Referent in the Referat for Aviation Medicine was that I had to work on from between three hundred to four hundred reports. In the reports from the Luftwaffe doctors in the flying formations in 1941 and 1942 I found an increasing number of reports of cases of distress at sea from the Mediterranean area from units which flew over the Atlantic. When severe thirst had come about the danger for the fliers in these sub-tropical and sometimes tropical areas was that they were not exposed to the cold, like their comrades in the North Sea area and the area around England, but they were exposed for days at a time to the heat of the sun and consequently to thirst.

I had personal scientific connections with this field. From 1935



to 1935 I had worked on questions of water and salt myself, although not with this definite aim of combatting thirst. Of course, I wondered how this problem could be solved. I discussed with the Referent Professor Anthony and at my suggestion, or rather our suggestion, in the spring, perhaps in April of 1942, Dr. Konrad Schaefer was given the assignment to see to it that the thirst problem was dealt with scientifically. For this purpose, he was sent to the Aviation Medical Research Institute in Berlin.

Q Witness, do you know that Dr. Schaefer in October of 1942 at the Nurnberg conference "Sea and Winter Distress" made a lecture on combatting thirst in distress at sea?

A Yes, I heard this lecture. Of course, it was simply a lecture based on his reading, because Dr. Schaefer had not performed any experiments himself at that time.

Q Then, to your knowledge, up to the fall of 1942, Dr. Schaefer had not performed any experiments on human beings himself?

A Neither on human beings or on animals, as far as I know. This lecture was simply a lecture based on his reading on the subject.

Q Now, what happened after this meeting; how did the matter develop?

A (In the winter of 1942-43 and in 1943, Dr. Schaefer worked on this problem intensively. First of all, he made physiological tests on how thirst was caused. It is remarkable that a thing which seems so simple and primitive to a layman, thirst, from the scientific and theoretical point of view was not settled at that time and is not completely settled even today. Dr. Schaefer performed many animal experiments and also self experiments on four or five of his technical assistants, who volunteered for this purpose. I should like to point out that these technical assistants went without water and food completely for four days, at the same time being able to carry on their full laboratory work.

The second way that Dr. Schaefer took was a purely chemical test

or development. He tried to discover a sea-distress food as good as possible. Without going into detail, I shall state briefly that most foods which we eat are burned in the body and become carbonic acid and water. In normal food about 300 cc of water are created daily in the body. It is possible to compose the food in such a way as to change and prepare foods chemically in such a way that this amount of water in the body is even increased. That was one purpose of Schofer's tests and on his suggestion two research assignments were issued to two research workers in Prague. That you cannot find these two men on the list, which has been discussed at length, is because this assignment was given in the fall of 1943 after this list was drawn up. Also Dr. Schofer developed a method to make sea water drinkable. Sea water has about 3% salts, about 2.7% table salt and about 0.2% magnesium sulphate, also small amounts of other salts, which are not important.

The table salt is important especially because it is the salt which causes or can cause thirst, and the magnesium sulphate is important because it can cause diarrhea. This diarrhetic effect of magnesium sulphate has a certain significance in this trial. This is caused only after a certain amount has been taken. For example, if sea water is taken, diarrhea is caused only if the individual dose, that is, the amount taken at one time, is at least 300 or 400 cc. In purely scientific collaboration with a research laboratory of the I.G. Farben Industry Dr. Schaefer worked out a procedure, and for the first time in the history of humanity it was possible that sea water could be made drinkable even under the conditions prevailing in a lifeboat. In the meantime I have become acquainted with a procedure developed by an American scientist, but I can still uphold this statement which I have just made because through my knowledge the procedure developed by Dr. Schaefer is the only one which at the same time removes the table salt and the magnesium sulphate. Dr. Schaefer had finished developing the procedure in about November 1943 and in the first days of December 1943 he demonstrated it in my presence to a small group of people, including the Medical Inspector, Professor Hippke, and Oberstingenieur Christensen of the Technical Office, the man responsible for introducing such a piece of equipment into the emergency equipment.

Schaefer's procedure gained general recognition at the time and Oberstingenieur Christensen promised the Medical Inspector, Professor Hippke, that this procedure would be introduced. In December 1943 he issued a so-called development assignment to the I.G. Farben Industry in order to have the last technical details worked out more quickly and preparations made for large-scale production before the beginning of the summer of 1944, if possible. This settled the whole matter for me. As this trial shows, it was unfortunately not settled.

Q. Now, witness, how did it happen that the matter was taken up again?

A. In January, February, up to the middle of April, 1944 I had a

leave to do some scientific work, to carry out some experimental work of my own, and I hardly had any contact during this time with Professor Anthony. When on the 16th of April 1944 I reported back to the office and took up my work, I heard to my great astonishment that in the meantime in Vienna a second procedure had been developed to make sea water drinkable by an engineer named Berka, and that a former Oberstarzt in the Luftwaffe, Dr. Von Serany, had tested this method in experiments on soldiers of the Luftwaffe in a Luftwaffe hospital in Vienna. Professor Anthony had heard about this story and had Dr. Schaefer go to Vienna and work with this procedure and with Serany's experiments, but unfortunately he had simply told the Technical Office that there was a second procedure and had not taken any further interest in the matter. Since between the 15th of April and the 15th of May I had taken over the affairs of the Referat - Anthony was to leave on the 15th of May - I immediately suggested that the original records from Mr. Von Serany should be sent for. I saw these records about the end of April. I looked through these records myself and suggested to my department chief that they should be shown to Dr. Schaefer and his opinion on them asked for, and on the basis of Schaefer's opinion and my own opinion we came to the conclusion that the Berka method was to be rejected under all conditions; and so in the first days of May 1944 a very definite rejection was given to the Technical Office. I shall go into the reasons for our rejection later. On the basis of our rejection almost exactly three years ago, on the 19th or 20th of May 1944, the Technical Office called a conference on the subject, and my department chief ordered me to go to it, and also ordered that Dr. Schaefer was to participate in the discussion as an expert in the field.

Q. Witness, I now come to the first document on the subject. I show to you from Document Book 6, page 10 of the German, page 9 of the English, Document NO-184, Prosecution Exhibit 133. This is a letter from the Technical Office to the Reichsfuehrer SS, dated 15 May 1944. I ask you, witness, did you know that in the question of making sea



water drinkable there had been close contact between the Technical Office of the Reich Air Ministry and the Reichsfuehrer SS from the end of 1943 at the latest?

A. No, I know nothing about such a connection and, of course, I did not know this letter.

Q. Witness, do you have the letter before you?

A. Yes, I have it.

Q. If you look at the letterhead and the signature, can you tell us what office this letter comes from?

A. Yes, it comes from the Technical Office and the abbreviation "GL/co 54" indicates it comes from the office responsible for the development of equipment for airplanes. That was the department of Oberstingenieur Christensen. On the copy I have here I cannot decipher the signature because there is no signature given, but some time ago I saw the photostat of this letter and I know the signature on it. It is that of Hermann, who was a Generalingenieur and Christensen's superior.

Q. Now I come to the contents of the letter itself. Witness, the Technical Office writes in the first paragraph, and I quote:

"With reference to the inter-office conference between Oberstingenieur Christensen and Hauptsturmfuehrer Ing. Dohle regarding the matter it is announced that two processes have been worked out by the office to render sea water potable."

Does this statement not contradict what you have just said?

A. Yes, but the statement in this letter is definitely untrue. Neither the procedure of Dr. Schaefer nor that of Engineer Berka was worked out by the office, meaning the Technical Office, as it says here. Schaefer's process was worked out for the Medical Inspectorate and Berka worked first at the Technical College in Vienna without any assignment, and only when Anthony informed the Technical Office would the Technical Office have been turned over to Berka.

Q. Witness, the Technical Office now speaks of Schaefer's

process and I quote. That is No. 1.

"The IG method uses mainly sulphuric acid. For this process quite a large plant needs to be set up and it requires about 200 tons of iron which costs about 250,000 Reichsmarks; the amount of the production needed by the Luftwaffe and Navy requires 2.5 or 3 tons of pure silver a month; besides the water which is rendered potable by this preparation has to be sucked through a filter in order to avoid absorption and precipitation of chemicals. These facts make the application of this process practically impossible."

In your opinion is this statement true, witness?

A. No, I can say the following. These 200 tons of iron might be a lot for a goldsmith or a housewife, but for the Luftwaffe, which had enormous losses of planes, 200 tons of iron were really not an insurmountable obstacle, not even in 1944. The 250 thousand Reichsmarks which setting up a plant for Schoefer's method would have cost are, of course, quite a lot of money for a private citizen, but if one considers that the training of one pilot until he is ready for the front, until he is ready to be used as a fighter pilot or a bomber pilot at the front, costs the state about 50 to 100 thousand marks -- I may remark that this includes costs of accidents in training and many other expenses -- if one contrasts this sum and considers that the first two or three fliers who are saved will reimburse the Luftwaffe for these 250 thousand Reichsmarks, then one can believe that this sum of money is no valid argument against the introduction of Schoefer's method. As for the 2.5 to 3 tons of pure silver which would allegedly be needed every month, this is a great exaggeration, as I think I can prove later. These 2.5 to 3 tons of pure silver were the amount of silver needed for the so-called primary equipment. In the course of future months there would be needed only for replacements the amount used in cases of distress at sea or by loss of planes. The Technical Office acts as if every flier would be forced down at sea once a month or that every plane would crash and be completely destroyed once a month. And now for the last reason, that is, the difficulty because a filter is needed in Schoefer's process. Even a non-chemist will be willing to believe that that is a very harmless matter, which can be easily settled and which is no reason against introducing such a method.

Q. Witness, the letter goes on to say, I quote:

"2. The second process which was worked out is the so-called Berke method. According to this method the salts present in the sea water are not precipitated but are so treated that in drinking they are not disagreeable to the taste. They pass through the body without

over-saturating it with salts and without causing undue thirst."

In my opinion this is a medical judgment on the Berke method. Was the Technical Office in a position to make such a medical judgment?

A No, and for that reason this propaganda for Berketit is that of a layman and is rather dumb. You indicated in your question that it was a medical statement, which the Technical Office was not competent to make, since it was composed purely of engineers. I said before that, at the beginning of May, 1944, the rejection of the Berke method, which had been very clearly formulated and explained, was sent to the Technical Office. Nevertheless, on the 15th of May the Technical Office wrote this letter to the Reichsfuehrer SS.

Q In the next sentence, the Technical Office speaks of the practical side of the process, I quote:

"No special plants are necessary for producing preparations needed for this process nor do the preparations themselves consist of scarce materials."

Will you please comment on this statement of the Technical Office, witness?

A The only thing true in this sentence is that no special plants were necessary for producing this preparation. That was really an advantage to this method. Berketit could be produced in any sugar factory. As for the statement that the preparations were not scarce materials, I may point out that the preparations needed were glucose. It is significant of the obstinacy of this Technical Office that 200 tons of iron they consider an unsurmountable obstacle, but glucose they say is not a scarce material. I don't think I'll be giving away any secrets if I say that, in 1944, glucose, which is made of corn primarily here, was a very scarce material and that glucose was used only for feeding sick persons and was available only in very limited quantities. Today, when all the papers are writing about calories, I can say that during our discussion with the Technical Office about the introduction of Berketit, the Technical Office went to the Supply Office of the



Luftwaffe and demanded the first two tons of glucose. Fortunately, we learned about it and were able to stop it. One ton of glucose contains four million calories. If one takes the amount of two thousand calories per person per day, which is ideal under present day conditions, this one ton of glucose which the Technical Office wanted would be enough to feed a four person family, from the point of view of calories alone, of course, for five hundred days, and yet the Technical Office says that is not a scarce material.

THE PRESIDENT: Counsel, the witness has been testifying as to the various methods that were suggested. I do not see that it has probative value before the Tribunal, the fact that they selected one method instead of another, and that they were even false with both methods. One method was selected and that method was attempted to be carried out. Certainly, the relative merits of the two methods are not particularly important. If the higher authorities rejected the better method, I do not see that that would be relevant.

DR. MARX: Mr. President, the testimony of the witness has probative value inasmuch as he wants to prove what difficulties were raised by the Technical Office and what prejudices existed in the Technical Office and how the matter developed, so that finally, from the point of view of the Medical Inspectorate, the experiments became necessary. For this reason I think that the testimony of the defendant is relevant, but in order to avoid delaying the trial unnecessarily, I shall ask only the most important questions and I ask you, witness, to be as brief as possible in answering my questions. You heard what the President just said.

Court 1

THE PRESIDENT: Counsel, you may proceed.

DR. MARX: The letter of the Technical Office continues, I quote: "It can be presumed that this method, that is the Borka Method will be introduced in the Luftwaffe and the Navy within a short time."

Q I ask you, could the Technical Office on its own initiative make such a decision?

A Yes, the technical Office could do that. The Technical Office alone was competent to decide whether a piece of equipment was to be introduced or not. I may add that in the organization of equipment customary in the German Luftwaffe, such as an item for making sea water drinkable was a food--the food Office would be competent to handle that. It was not medicine; The Chief of Medical Service would have had to decide about that. Rather it was a piece of equipment, and thus fell under the authority of the Technical Office. But I may point out briefly that this statement of the Technical Office on 15 May 1944 indicated clearly that at that time the Technical Office was firmly determined to introduce Borkatit, and this prejudice on the part of the technical Office is extremely important for what I have to say about the discussions of the 19 and 20 May which followed.

Q Witness, did the Technical Office demonstrate this prejudice which you speak of before the discussions of 19 and 20 May?

A In regard to Borkatit, in part, yes, because before the 20th of May, for example, Christensen called up Dr. Schaefer or called him in and told him that he prohibited any comment against Borkatit. And from work in the Refurat for Aviation Medicine I was used to similar prejudices in scientific attitudes from the same office, and in other fields, for example in the field night sight, which is of no interest here. However, I refer to it only because there is an affidavit on the subject.

DR. MARX: At this point I should like to refer to an affidavit of Dr. Heinrich Rose, who is not identical with Professor Gerhard Rose. Dr. Heinrich Rose, was also a doctor. He was a dye doctor, and he was

Court 1

called upon as a consultant from time to time. I quote from the affidavit of Dr. Heinrich Rose. This is document 39, on pages 162 to 163, Document Book 3. This will be Exhibit 26. I quote only one paragraph, that is the one under "1"). The affidavit of the 27 December 1946. I quote:

"The technical Department of the Reich Air Ministry proceeded independently also in questions of medical research. For instance, the Technical Department gave orders to test Xipoid retinale - a remedy which was supposed to improve night sight on the troops without previous consultation with other medical authorities."

I shall not read the rest of this document. I shall come back to it later in my argument. I offer this affidavit as Exhibit 26.

Q Witness, I ask you, when you went to the discussions of 19 and 20 if you did not know that the Technical Office has already decided on Sacktit and had promised that it would be introduced soon?

A No, I did not know that.

Q The Prosecution has submitted a document which is no doubt the most important one in the whole prosecution document book in this connection; in any case the Prosecution showed this Document to Professor Schroeder in cross-examination and drew the conclusion that the sea-water experiments were criminal. I should therefore like to discuss this document with you in detail. It is in Document Book 5, page 12, in the German Book, page 11 of the English. This is Document No 177, Exhibit 132; do you have the photostat?

A Yes, I have it.

Q Witness, how did the two discussions of the 19 and 20 of May come about; did you suggest them? Did you make the preparations for them? Did the Chief of the Medical Services of the Luftwaffe call them, or who?

A These discussions were called by the Technical Office, and at both discussions the person who called them presided at them, that was Oberst-Ingenieur Christensen, the head of this department GI/co 5. 43

Court 1

department chief, as I said, sent me and Dr. Konrad Schaefer to those two discussions, and I may add that he did this because according to the information which we received, I think it was a telephone call to my department chief, we expected a small discussion attended solely by Rferents, and not a discussion on the scale on which it actually took place.

Q Witness, will you first comment generally on this report?

A I should merely like to refer very briefly to what I said. Above all I should like to go back to Instrument No. 184, Exhibit 132, according to which, on the 15 May 1944, the Technical Office was already determined to introduce Burkattit. So, that is the office of the chief of Medical Service of the Luftwaffe, were asked to attend two discussions on the 19 and 20, and went to these discussions convinced that it would be a purely technical discussion of this point question. Now, please look at the letterhead and the heading of this document, which on the 15th of December 1945 was submitted by the Prosecution page 525 of the German record; what you have to say about that.

A The heading, and if I may mention it right now, the signature of this letter shows that it came from the Technical Office, that is the Office of Oberstingenieur Christensen, and was signed by him personally. Above the document it says "Minutes". If the Prosecution thinks that it is a record transcript I must say that I do not know the exact definition of these terms in International Law. I merely know now a record came about in the Aviation Ministry, since I belonged



to this office for almost five years. At a meeting a person was appointed who either took down the entire wording of the meeting in shorthand or took down the main points of the meeting. At the end of the meeting this document was shown to those present. They had an opportunity to read it, to approve it and to sign it. Then it was signed by the recorder and in this way such a document obtained the character of what we call a "Protokoll", or if no recorder was appointed then at the end of the meeting a brief decision was drawn up in a few pregnant sentences which were dictated to a secretary and it was also signed by all participants at the meeting. There was a third possibility in very long discussions; the office which called the meeting, the representative of which was in charge of the meeting, drew up a report of the meeting, a report of the discussion rather, the draft of which was sent to the various agencies or persons who had participated with the request for signature, then one had an opportunity to read it through calmly. The persons justified to do so signed it. It was sent back to the office where it had come from, and then above such document it said, "In agreement with such and such agencies the following report is issued." According to my rather thorough knowledge of the procedure of the Reich Aviation Ministry these were the three possibilities of how a binding record was drawn up.

A. (Cont.) This Document indicates that there was no person appointed or named here who kept the record and that the participants did not sign this document. It is not a shorthand record and it does not say that it was issued in agreement with the agencies concerned and finally about the entire document, there is the word "Niederschrift" and not "Protokoll", which means that the person who drew it up did not think it was a binding record. Therefore, I want to say that the person who drew up this Document, presumably the Referent of Christensen, and Christensen himself, who signed it, apparently are just putting down their impression of the meeting and what they thought should be passed on to other offices.

Q. Now the Document lists the people who were present. I do not want to read this part of the document, but I want to ask you from what point of view had these people been chosen?

A. I need not read all the names, but it is noteworthy that there were nine people there and that with one exception, all people except Dr. Schoefer and myself were Majors or Colonels and as I shall explain later that they were all people who did not understand medical problems and were therefore all the more in favor of the introduction of Berkatit.

Q. Now, did you wonder why so many officers were called to this discussion?

A. Yes, especially on the 20th I noticed what was going on very quickly. It was a typically staged scene, at which every one except Dr. Schoefer and myself knew his role very well by heart. They were to out-vote us to see that Berkatit should be introduced.

Q. Before I go on with the document, witness, I should like to ask: was the discussion on a scientific basis or were there any debates or quarrels?

A. I must say that at this discussion I heard one of the participants, the chief of the Travemünde Government Testing Station, a Major Jeworok, attack me personally. He said I was against Berkatit only because I was financially interested in the other method.

I stood up and wanted to leave. Unfortunately, I did not and I let Christensen and Jeworek's apologies induce me to stay.

Q. Now, witness, I shall go on with the document. I do not intend to read the next paragraph entirely. The first paragraph reproduces part of the discussion because Borisy's experiments were not considered adequate, according to you. Then the document continues:

"The Chief of the Medical Service is convinced that, if the Borisy method is used, damage to health has to be expected not later than 6 days after taking Boriktit, which damage will result in permanent injuries to health and-- according to the opinion of Dr. Schaeffer -- will finally result in death after not later than twelve days. External symptoms to be expected such as drainage, diarrhea, convulsions, hallucinations and finally death."

Will you please comment on this passage; first a preliminary question. On 16 December 1946, page 526 in the German record, page 480 of the English transcript, the Prosecution said that the defendants Schaeffer and Schroeder expressed the opinion that the experiments would cause injuries to the health of the experimental subjects. Before this meeting, did Professor Schroeder know about the plan for these experiments?

A. No, he was informed only after the discussion. I heard this statement of the Prosecution too. I think the names were confused: it should have been "Becker-Freyse and Schaeffer," or it may be that since it says Chief of the Medical Service, etc., that might have confused him. The Prosecution thought that it was the chief of the medical service, Dr. Schroeder, personally. In German military terminology it was customary to speak of the office, to say Chief of the Medical Service and Chief of the Intelligence Service, etc., meaning the office not the person in charge himself.

Q. Witness, will you say whether you actually made the statement in this document and held the point of view reproduced here?

A. It is true that on May 19th I made a brief speech saying

roughly what we had said three weeks before to the Technical Officer in writing. I said more or less that Dr. von Serany's experiments in Vienna did not seem valid to us because they contained a number of mistakes, but I would like to go into a statement contained in Schroeder's affidavit, that I said Serany's experiments were not strict enough. In my opinion, Serany's experiments were stricter and more dangerous than those which were later carried out under our responsibility. In Serany's experiments, every subject could drink as much as he wanted. This caused diarrhea, which made the thirst much worse and this diarrhea was not included in Serany's records of the experiments.

In my speech, I said when speaking on some definite experiments subject of Serany's that if this experimental subject, who drank seawater for four days, had gone on in the next few days to drink as much seawater, he would have lost so much water because of diarrhea that after about six days there would have been serious consequences. I am unfortunately forced to make a very brief physiological remark on this subject in order to explain what will follow. The human body consists to a very great percentage of water. The body of a new born child is 90% water, this water gradually lessens in a normal adult to about 60 % water. This water is in part in the body tissues and is kept constant as a permanent supply. In addition to this supply of body water, we also have the so-called transport water, which we take in daily with our food and which we eliminate daily. This elimination is in part by respiration, in part through the skin, but the majority is through the kidneys. In our food, we ingest daily a quantity of salt which must be eliminated, also in metabolism a number of products are created which must be eliminated through the kidneys. For this reason the kidneys need a certain amount of water. They need water because they are able to eliminate urine only up to a certain concentration of salt. If I now give the body either too much salt or too little water, then the normal transport will be insufficient for the kidneys and they will be forced to use the water supply of the body itself.



Now, if the water in the body tissues has been reduced to a certain limit, then we feel thirst. At least, that is one reason for thirst. A loss of body water up to about 10% can be sustained without any danger. At 10% disruptive symptoms begin, the danger increases up to 20 %, and if the loss of water of the body reaches about 20 % then there is a certain danger of death.

I should like to point out one thing in connection with the experiments under discussion here. I have already said in Serany's experiments diarrhea occurred because Serany let his experiment subjects drink unlimited quantities of seawater of which the unpleasant taste had been covered by Birkatit.

It is generally known that in diarrhea large quantities of liquid are lost. That was our preliminary argument against Birkatit.

It might seem that the Prosecution is right in saying that I called the Birkatit experiments very dangerous, but that is not the case. I said that the use of Birkatit in practice in distress at sea was very dangerous for the following reasons. If one looks at the reports of cases of distress at sea, and there are some very good English descriptions, one observes generally that shipwrecked persons first try to go without drinking at all for one or two days. During this time, of course, they lose water and they become more and more thirsty. Finally they cannot stand the thirst and under those conditions they drink what they have in unlimited quantities, that is, seawater. In this condition, seawater can have very dangerous consequences. Cases have been described where after only a few hours a very serious condition was caused, and even sometimes with fatal consequences.

THE PRESIDENT: Witness, at this time you will have to suspend the discussion until after recess.

(A recess was taken until 1330 hours.)

AFTERNOON SESSION

(The hearing reconvened at 1330 hours, 22 May 1947.)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Counsel may proceed.

HERMANN BECKER-FREYSZING - Resumed

DIRECT EXAMINATION (Continued)

DR. MAX: (Counsel for the Defendant Becker-Freyszing) I shall now continue with the direct examination of the witness, Dr. Becker-Freyszing, with permission of the Tribunal.

BY DR. MAX:

Witness, a little while ago you were describing the physiological fundamental ideas which prompted you, and which constituted the basis for the experiments. May I ask you now to take up the threads once more and continue with the descriptions of this morning.

.. Before the noon recess I shortly stated that the main danger in sea emergencies is that the ship-wrecked person in a completely dried out state after having suffered thirst for a number of days, is drinking sea water. And I further said that according to the agreement made by all experts in this field, the person in this dried out state suffers considerably and that his organism can therefore also be considerably damaged. The danger of Berkatit was seen by us in the following: The berkatit a sugarlike drug which has the capacity to do away with the bitter and salty taste of sea water and to convert the sea water into perfectly drinkable liquid. The person in sea emergencies with the aid of Berkatit will be able to prepare a certain amount of drinkable sea water. Since, however, Berkatit does not change the salt content of the sea water, the ship wrecked person after some time will, of course, become thirsty and again with the aid of his Berkatit will try to drink sea water. He again introduces a considerable amount

of salt into his body which must again be eliminated from his body and, since, by and large, the water which is mingled with the salt is not sufficient, he will get more and more thirsty as time goes on and thereby will begin to drink increasingly larger amounts of sea water mixed with Berkatit. As soon as he starts drinking more than 300 cubic centimeters at one time diarrhea will or must ensue. Not only will he lose water through the bladder but also as a result of diarrhea. This means that the thirst condition increases and at the same time the danger of being thirsty.

One could naturally say that one could prescribe exactly how much sea water can be drunk mixed with Berkatit. There is no need for a long discussion in stating that a shipwrecked person finding himself in an ocean full of sea water which he allegedly can make potable, by the use of Berkatit, can not be credited with a sufficient amount of self discipline in actually adhering to this dose as it was officially prescribed. At any rate, such an assumption can not be made the point of departure of any military directive. This is the big danger of Berkatit in the sea emergency practice. Entirely different, however, are the conditions for the Berkatit experiment. If I start to speak about the experiment which we carried out without much ado, the situation was as follows:

During this experiment the entire amount of sea water with or without berkatit had been determined beforehand. The amount of the individual dosage was pre-determined in such a manner that in no case could diarrhea result. That was very simple because only had to keep the individual dosage under 300 cubic centimeters. In addition, there was always a physician present during the experiment, who was in a position to observe and judge the condition of the experimental subject and could always interrupt at any moment this artificial sea distress condition by simply giving again normal water to each experimental subject. There is a very clear and absolutely logical difference for the expert between the application of Berkatit during the actual experience of sea distress where the shipwrecked person is swimming in his rubber boat somewhere in the middle of the ocean all alone and the experiment under permanent adequate medical control and exact predetermined conditions which take into consideration all of the dangers I just described. During the conference on 19 and 20 May 1944, in order to revert back to our original document, I had to instruct the technicians and engineers, who also were participants in this meeting, about the matter as I just described it. Very soon I noticed that I had described it in such a way as to really make it clear to the engineers what the danger of Berkatit actually meant. For very understandable propagandistic reasons I therefore painted the danger extremely black. I told these engineers that no medical man very well knows the extremely serious consequences of thirst and the loss of water. He knows it from a very dangerous sickness, namely, the cholera. In order to avoid any later misunderstanding I may now state that naturally there is considerable difference between the consequences of sea water and the thirst and the cholera. I gave this example, only to remind these people of cholera, since particularly during this illness continuous diarrhea results, and a great loss of water ensues as a result of these diarrhea attacks, which in turn provokes serious disturbances in the organisms which may lead to death. I quoted verbatim during this meeting,



what we knew about the loss of water in the case of cholera is contained in the text book of internal medicine by Bergmann. I at that time was in the possession of that book and I had read it through before. I am even now in a position to read to you the same passages.

Q Witness, you were just speaking of Bergmann's text book. I shall have it handed to you and I may ask you to read the passages to which you have just referred into the record.

A We are concerned with the text book for internal medicine by Aschmann, Bachmann and Gustav Von Bergmann and a number of other professors, published by Julius Springer, Berlin Edition of 1942 —

MR. HEDDY: May it please your Honors, it seems to me that this technical argument concerning the qualities of the Berka method is rather extensive and it seems to me that the defendant can get to the issues involved in this case without going through all of this technical argument and discussion. No doubt there is room for a considerable amount of this discussion here. However, he has covered quite a bit of ground now and the issue in the case is whether or not the experiments were performed, whether or not they were performed on non-volunteers and whether or not the experiments were criminal in their essence, and there are three factors in the experiments, one is the Schaeffer method which was followed out and the other was the Berka method, and the defendant has testified the Berka method was more dangerous, and I don't see what other matter is necessary now to get this matter before the Tribunal.

THE PRESIDENT: I would ask the counsel for the defendant just what the purpose is of pursuing this particular phase of the interrogation any further. The Tribunal might well be convinced that the Schaeffer method for purifying sea water making it potable was the better method and that it was the method that was followed. This method was adopted and this defendant is charged with having carried it out to the prejudice of certain experimental subjects. Now just what is the purpose of reading from this book, counsel?

DR. MARX: Mr. President and Gentlemen of the Tribunal we are here concerned with the following: The Prosecution charges the defendant that he in knowledge of the alleged danger of Berkatit has used this drug and permitted it to be used during the execution of the experiments. The witness says that there can be no question of any danger incurred as a result of Berkatit if the experiment is guided accordingly from a medical and scientific point of view. This book will prove that the statements by Dr. Freysang are supported from a physiological point of view by medical authorities, including Professor Bergmann, and the other authors who participated in compiling that text book. I shall only read this passage into the record for the purpose of identification and for the purpose of later argumentation. This is merely a short passage which tends to confirm the testimony of the defendant. Furthermore, I shall endeavor to do everything possible to limit the testimony as much as possible.

THE PRESIDENT: The text of a recognized authority may of course be used in argument, but if counsel desires the witness to read only a short passage from the book he may read that.

DR. MARX: Thank you, Your Honor.

WITNESS:

A. We are only concerned with four sentences. I quote on page 28 of the book I just mentioned:

"Considerable loss of water through the intestines has to occur to a considerable extent during Asiatic cholera but also during gastroenteritis can lead within a few hours to the most severe drying of the body tissues. Soon psychological disturbances occur, fatigue, a feeling of heat in the face, numbness and apathy. If the water in the tissues is decreased by ten per-cent considerable disturbances already occur. Decrease of the water content up to 20 or 22 percent has death as its result."

Q Is that all?

A Yes, I think that I either quoted this passage verbatim or indicated it to them in order to convince the engineers present about the danger of Berkait. Layman who heard this matter for the first time considered it first to be an unpleasant symptom from the subjective point of view but it was my task to put the purely objective danger of this procedure to these people. I think that my description rather impressed these people. Everything contained in this document No. 177, Prosecution Exhibit 132 is an oral repetition of parts of this text book by Bergmann.

A. May I now refer you to another point in this document to which I shall have to take a position. In this connection, Dr. Schofer is said to have stated that death would have to be expected after a period of twelve days. This period of twelve days, to a certain extent, was a necessary exaggeration. Those twelve days referred to the expected loss of water, referring to a very definite experimental subject from the experimental series of Professor Sirary. At any rate, I succeeded with these rather pronounced arguments on the occasion of the preliminary conference of the 19th of May that Berkatit was not introduced as contrary to what the Technical Office had already decided, but that further experiments would be carried out concerning that question. It says in this letter, I quote:

"As a result of this pre-discussion, it was agreed upon that new experiments over short periods of time be started."

While according to Document NO 184, Exhibit 132, dated the 15th of May, 1944, the Technical Office was determined to introduce Berkatit, I had at least succeeded in dissuading this Technical Office from decision.

B. Witness, how did it happen that in spite of your reasons given from the medical point of view, this office still insisted on using Berkatit and didn't drop it? From this report we see no reason for the attitude adopted by that office.

A. After I finished my lecture, one of the engineers present stated that Professor Eppinger of Vienna had examined the Berka procedure and had considered it to be reliable. Professor Eppinger is one of the leading German interredists and with such support the Technical Office was naturally successful in opposing me. On the other hand, of course, I could not contradict the internationally renowned authority of Professor Eppinger.

B. Witness, the witness continues on page 2 and I quote:

"In order to determine these experimental series a commission will have to meet, who, during the conference on the 20th of May, 1944,



should be agreed upon in collaboration with the OKM."

Does this formulation correspond to what actually happened and why was it necessary for a later commission to meet?

A. It is correct that on the 19th or the 20th of May, 1944, it was decided to arrange for a commission to meet on the 25th of May, which was five days later, in order to determine the conditions for the experiment. On the 19th of May, therefore, neither the experimental series themselves nor the commission were known, who were to determine the conditions for these experiments. The members of this commission were only appointed on the 20th of May in the presence of the representatives of the Navy and, only on the 25th of May, 1944, the experiments were actually discussed and the conditions determined in such a way as they were actually carried out later.

Q. Witness, the statements which you just made are contrary to what can be seen from the next sentences in the document. According to which a certain program for the experiment was already worked out on the 20th of May. It says there that definite experimental series were determined. I'm not going to read those experimental series because they are already known to the Tribunal. Would you please define your attitude towards that, witness?

A. The experimental conditions, as they were stated on page 2 of the photostat copy under II, 1 and 2, do in no way correspond to what five days later was determined. They do not correspond to what actually happened when the experiments were carried through. Beyond that, they do not correspond to what was actually said about these experiments on the 19th or 20th of May 44. In addition, that becomes apparent, from the following, very clearly. A few lines above it says:

"In order to determine these experimental series, a commission is to meet, which during the discussions of the 20th of May, 1944, together with the OKM, which is the High Command of the Navy, is to be determined."

Then the letter continues:

"The experimental series are to comprise the following:"

Whoever was the author of that letter, how could he know on the 19th, what the commission which was only to be appointed on the 20th would decide on the 25th. Beyond that, the author of that letter was not even a physician. Otherwise he wouldn't have been able to entertain any such thoughts. This man was merely a technician who probably never in his life has performed a medical experiment. You were, furthermore, asking me why such a commission was necessary and why the experimental conditions couldn't have been determined already on the 20th. That had the following reasons. During the conference on the 20th of May besides a very young captain of the Navy, who had heard about this problem for the first time in his life, only Dr. Schaefer and I were present as physicians. Since both of us, however, were members of the Luftwaffe Medical Service and since the Technical Office wanted Dr. Eppinger to represent them during that conference, and, since furthermore the Navy wanted a representative too, it is clear that we were not in a position to determine the conditions for the experiments among both of us, but that the Navy and the Technical Office urged that the experimental conditions be determined in the presence of their representatives.

Q. Witness, in that case I can say that the conference of the 25th of May, 1944, would have been entirely superfluous, even senseless, if, on the 19th and the 20th of May, such decisions about the experimental conditions had already been made. In other words, it was to depend upon the presence of Eppinger and a number of other well known scientists to decide upon the final conditions for the experiments? Is that correct?

A. Yes, that is correct.

Q. The conditions for these medical experiments could only be determined by the medical representatives of the respective agencies. Was it to

be assigned for that purpose from the different agencies?

A. That can be seen on page 3 of the original document which I have before me in photostat form. It says that the commission was to include Professor Eppinger, Vienna; representatives of the agency of the Chief of the Medical Service; representatives of the Technical Office; and representatives of the High Command of the Navy, ONI.

Q. Didn't you discuss experiments at all on the 19th of May?

2. Naturally, experiments were discussed. I told them in a very general and understandable way for all the laymen present there, and without going into any physiological or experimental questions that a number of experimental groups would have to be set up if this question could be solved experimentally at all. I approximately said what would be to carry out such an experimental series. I certainly said that one group would have to be treated with the Berkatit procedure, and I certainly must have mentioned that it would be expedient for purposes of comparison to leave out one group entirely, and naturally I also must have said that it would be necessary to have a so-called control group to which normal drinking water was to be given. What, however, I certainly did not say was that a number of experimental groups should be limited to six days at the most, and on the other hand no experimental group should be limited to 12 days. The aim of these experiments, after all, was to determine the time during which Berkatit sea water could be consumed. If I must for once assume the credit which was granted me by the Prosecution initially to the effect that they admitted that I was young, but to a certain extent an experienced scientist, I will assume it here. I never suggested any such experimental nonsense, and never would have done so. If I carry out an experiment in order to find out the tolerance of an experimental subject towards a certain drug for any particular length of time, it lacks the most primitive logic to determine already at the very beginning how long this experiment is to last. If so I could have saved myself the entire experiment, the time as to how long these experiments could or should be carried through naturally primarily depends upon the amount of sea water consumed. Now, this so-called "minutes" of this discussion was laid down by a layman, and only a complete layman is in a position to derive merely from the fact that one drinks sea water daily, can derive a danger from the fact that one drinks sea water daily. Any such statement can only have sense and reason if it is stated how much sea water is to be consumed



during that time. If, for instance, it was said here; people consumed 500 cubic centimeters, or 10000 cubic centimeters daily, or any other figure, and if there had been stated that under this special experimental condition the expected duration of the experiment is so and so many days, then this statement would have the merit of a certain amount of sense. It constitutes, of course, a tremendous amount of difference whether I carry out the experiment with a slight amount of sea water or an enormous amount of sea water; but do let me point to the following in this document; under I, "a" it is stated, and I quote: "People nourished with Berlin sea water procedure." A little further below it says, "Period of experiment 6 days at the most". Immediately underneath it says, "People to whom sea water and berkeitt was introduced," and so forth, and then it says, "Period of the experiment 12 days." Had I suggested an experiment to last over 12 days then I certainly wouldn't know why I should have suggested the other experiment to last only six days. Whatever I could have derived from the experiment which allegedly should take 12 days, would have also included what would have happened in the first six days of this entire period of 12 days. For any physician who has only the most primitive imagination of an experiment it is entirely out of the question to read any sense out of this so-called experimental plan.

In conclusion, I may say that neither on the occasion of the conference of the 20 or 25 of May in the presence of Professor Linderer, or when limits were determined throughout which the experiments were to be conducted, or when these experiments were to be interrupted, because these very dates were to be exceeded experimentally, isn't that correct?

A. Yes, that is true.

Q. Witness, during these negotiations and during the negotiation of the 19th of May 1944 was there any mention made of the selection of the experimental subjects; was it said expressly that these were to be

furnished by the Reichsfuehrer SS?

This proposal was not made on the 19th of May 1944. At that time I stated approximately the following, I said that the experiments which had now once more become necessary should naturally be carried through under the responsibility of the chief of the Medical Services for undoubtedly we are here concerned with a medical matter. In February or March 1944 I had performed my own experimental work in Berlin. To be sure at that time I didn't work on human experimental persons, but on animals, but at that time I was active in my medical research institute, and experienced the enormous difficulties which conditioned the execution of scientific work under the stress of daily air attacks on Berlin. I therefore knew exactly just how difficult the execution of experiments was in the summer of 1944 and in particular in Berlin. In addition it was clear to me approximately how many persons would have to be secured for this experiment if it was to be carried through. I think that at that time I estimated that about 20 or 30 experimental subjects would be needed. During the conference of the 20th we have found out that we would need approximately 40 experimental subjects for that purpose. In addition it was clear to me that the experiment would have to be continued for about 4 weeks without any interruption because before the seawater experiment proper and after the seawater experiment proper, the experimental subjects would have to undergo pre or after-observation. For this reason I considered it my duty to point out to the participants in the meeting on the 19, 20 and 25 that it would probably be extremely difficult to get the necessary experimental subjects for such experiments.

We did not have the basical order in the Luftwaffe to the effect that soldiers were not to be used for experiments, as it existed in the army. Extremely often we used soldiers for experiments. I became increasingly difficult to get such soldiers for any length of time and I thought it to be out of the question to get forty soldiers for such an experiment from anywhere. The same was true in the case of patients in hospitals. At the end of 1943 or beginning of 1944 a number of regulations had been issued by the G.K.O. to the effect that the stay in military hospitals of soldiers was to be limited to the smallest extent and as far as it could be justified medically, which meant that not even this possibility could be considered.

The Prosecution asked Generaloberstabsarzt Prof. Schroeder during the cross examination whether he considered it possible that in the year of 1944 - whether we could obtain 40 experimental subjects in Berlin, a city of four and a half million inhabitants. Germany in the year of 1944 was amidst total warfare. Anyone who has not experienced that war on his own body can not grasp the situation which then prevailed.

From the point of view of personnel, the situation at that time was such that practically every man capable to bear arms had been drafted into the Wehrmacht and all others, even women had been used for some kind of labor. Even the youths, fifteen or sixteen years old, were used as either ack-ack assistants or in the labor service.

Naturally in Berlin, considering the four and one half million inhabitants we could have raised 40 people on which we could have performed these experiments, but who would they have been? At the most, we could have gotten some women, who were inspired by a will to sacrifice themselves, or some ill people, or some young boys and girls of a very youthful age. These were all experimental subjects who in no way could have

conformed to the conditions. Experimental subjects, who had the corresponding age, no one could have found in the year of 1944 and none of them could have received leave for four weeks from their office or work place.

Well, how was the thought finally entertained to use prisoners for these experiments?

.. On the 19th of May I pointed out these difficulties briefly, the difficulties I have just described and on 19th May this question remained open. Then immediately after the discussion ended, while I was still in Christensen's office or in the corridor, I talked to one or several of the engineers who had been present and one of us pointed out that at that time in Berlin companies of prisoners were used to clear away debris of buildings which had been destroyed by bombs. That was something that was familiar to everyone in Berlin at that time and the prisoners, who were seen at that time in their striped suits were the very people whom we could use for our experiments. Every Berliner saw in the streets in those days these young men, twenty, thirty or forty years of age, healthy strong and capable of work. One of us, maybe it was myself, I don't remember, remarked that those were the people from whom one could get a few volunteers for such an experiment.

Now, the referent of Christensen, Stabs-Engineer Schickler, referred to this remark in the meeting on 20th of May and asked me as it is stated in this record, since he had consulted me about the meeting of the 19th and since he himself said it was very difficult to get experimental subjects. Schickler asked me something like this: "Dr. Becker-Freyson, yesterday we discussed another possibility to get out of this difficulty of finding experimental subjects; would you present your idea to those present in this meeting again?" I said that I considered it possible,



if all other sources for experimental subjects dried up, we could ask the competent authorities for prisoners for experimental subjects. I said that was up to the chief of the Medical Service, but we would try to have the experiments carried out in our own office with our own people and if that was not possible, we would try to find other subjects. That was assuming that the discussion on the 25th of May actually came to the conclusion that the experiments were actually to be carried out.

Q Witness, how do you feel about the explanation given by the person who drew up this report for the chart of the laboratory in Dachau?

A You probably mean the basis, since the chief of the medical service expects certain damage to health and therefore people should be taken from a concentration camp.

Q Yes, that is the basis I mean.

A. Here the non-medical writer of this report has confused two or even three things which have nothing to do with one another. First of all he has confused the danger of Berkatit in practice with the absolute safety of the same drug in an experiment. And then he confused this whole matter with purely organizational difficulties. In the summer of 1944 in Germany finding forty healthy young men as subjects for an experiment which would last four weeks and besides I think that this man did not realize what he was writing. And, as a layman there is perhaps something sensational in having to do with the subject of human experiments.

Q. Witness, I go on in the document. I skip the next paragraph. It speaks for itself. The next two sentences on page 3 of the document I shall quote: "In regard to the silver problem GL/C - E 5 IV will determine whether the necessary amount of silver is available. With GL/C-B 5 it is to be determined whether the same quantities will be required as heretofore." Will you please comment on that?

A. Yes, I can comment very briefly because I have referred to it before. At the time of this meeting I said that the alleged 2.5 to 3 tons of silver required was a gross exaggeration and the technical office had to admit that and promised to check the affair again.

Q. Then what can you say in conclusion on the point of the document?

A. The whole document?

Q. Yes, I mean this last passage. You have already spoke about the rest of it.

A. It is the admission of the technical office that the 2.5 to 3 tons of silver is an exaggeration.

Q. You have said already that that would be necessary only for the first equipment.

A. Yes.

Q. Now, I come to the second part of the document dealing with the conference of the 20 May 1944. The list of participants is on page one of the document. I should like to ask you did you know these

men who come from the Navy?

A. No, I know none of these Navy men and I did not know, as the document indicates, that the technical office of the Luftwaffe had previously discussed the same subject with the Navy because it is again here that Schickler reported about the work done since the last discussion. Since we had had no discussion previously with the technical office it could only be discussions with the Navy which were carried on behind our back.

Q. Witness I shall now quote the first paragraph: "At the main conference on 20 May 1944, Captain Eng. (Stabsingenieur) Dr. Schickler reports on work done since the last conference especially regarding the results of the preliminary discussion, described in part No. I." You have just said that Mr. Schickler spoke at the second meeting. Now I would like to ask you - it says here that he reported on work done since the last conference especially regarding the results of the preliminary discussion. Did you know of any conference before the one of 20 May 1944?

A. No, I just said that I had known of no discussion between the technical office and the Navy.

Q. The next paragraph contains the Navy's point of view. It said that the Navy considered it important to introduce the method immediately, and wants to find something good for three to five days. What do you have to say about that?

A. I must go back to page one of the document briefly. Under number 4 there is a Marine Stabsarzt Dr. Laurens who came from the office of the Commander Admiral of Submarines in Kiel. The Navy had planned if possible to get all the drinking water supplies for the submarines by one of the new methods developed by the Luftwaffe. Since a submarine is at sea for longer than three to five days it is obvious that this statement were proof that the writer failed to understand the problem. Not only every Navy expert but everyone else who thinks this matter through carefully will agree with me no doubt if I say that

precisely in the Navy there is great interest in finding a workable process. While the Luftwaffe had only very small life boats in its planes, rubber life rafts, the Navy and the Submarines have life boats which are much larger, where 50, 60 or even 100 people can use them. One need merely open any book reporting a ship wreck, one will see that such life boats of the Navy are often 30 or 40 days at sea before they reach land. The English who have been seafaring people for centuries have many very clear reports on that subject. If the Luftwaffe wishes ship wrecks of course within a certain limitation from the land base and have been satisfied with three to five days this limitation of three to five days would have no sense for the Navy at all. I don't know what the writer was thinking, at least he didn't write down what was actually said.

Q. Now, did the Navy consider Sirany's experiments sufficient?

A. That is given here in this document and in the second place, at least, the representatives of the Navy who were present said they would consider Sirany's experiments sufficient. In addition to this Stebeart Laurens. None of them were doctors. I shall explain later that certain people in the Navy did not think these experiments adequate but during this discussion representatives of the Navy said Sirany's experiments were adequate.

Q. Now, I come to the next problem, and I quote:

"These series of experiments should be finished and reported on not later than the end of June. During this period all preparations are to be made for the commencement of production according to the Berke method at a date not later than July 1st 1944, and also, if the I.G. method should be introduced, for the start of the construction of the necessary manufacturing equipment by the I.G."

Can you comment on this. Were these points discussed in this form during this conference?

A. No, and if they had been discussed I would have objected so violently that they would probably not be given in here, but maybe



they would be. On the first of July the Burka method is to be in production. At the same time the beginning of the construction of the manufacturing equipment is to be begun for the other method. This indicates to me the whole prejudice and unpractical spirit of the person who wrote this.

Q. The next paragraph deals with the people in this commission you have just mentioned who were to meet later and determine the series of experiments. Is this list of the members of the commission here, correct?

A. Yes, no names are new except Professor Eppinger. It is hardly possible to make any mistakes, therefore. I may point out the following: "As representative of the Medical Service Stabsarzt Dr. Becker-Preysing is provided." That was the opinion or perhaps the wish of this office. In reality my departmental chief was present on the 25th. I was with him, that is true. Besides after I had reported to my departmental chief when I returned to the office he said that he would ask two other scientists to participate at this meeting. First, the Professor for Pharmacology at the University of Berlin - Professor Heubner, and the Professor for Physiological Chemistry at the University at Kiel - Professor Netze. Then it gives here as representative of the Navy Professor Orzechowski. Unfortunately the Navy informed Professor Orzechowski so late that he did not attend the meeting himself. I may also point out that this second discussion on the 25th was on the order of my departmental chief in Berlin. While it was originally to take place in Munich because of Professor Eppinger was had to come all the way from Vienna since my departmental chief wanted to be present at this meeting himself, since Professor Heubner from Berlin was to be present and Professor Netze from Kiel, it was more sensible to have the discussion at Berlin - which happened.

Q. Now, witness, what about the sentence in parentheses which mentions a telephone conversation which you are supposed to have had on the basis of which the place of the meeting was changed from Munich to Berlin, do you recall anything about this telephone conversation?

A. Yes, I remember this telephone call but it could have been at the earliest one day after the meeting, that is on the 21 st. And I don't know how it could be put in an alleged record of what happened on the 20th.

Q. Then, again in your opinion this is again brief how light-heartedly this record was drawn up and that it does not give the full course of the thing.

A. Namely that would have had to be a supplement to this record.

Q. Witness, the report goes on to say. I quote: "Dachau was determined as the place of the experiments". Who determined that and what do you have to say about it?

A. Nobody determined it and nobody could determine it. There was not a single representative of any officer there who had anything to do with concentration camps. That would have had to be a representative of a High Police Agency of the Reichsfuehrer-SS or the Reich Ministry of Interior. It is quite possible that that is based on the following mistakes or the following facts: Everyone present realized that experiments with prisoners could not be performed in any prison or penitentiary and probably one of the people present wondered how this would be done technically. Then I no doubt told him what I knew - that I knew there were laboratories in Dachau and that I could imagine that if one could obtain prisoners the experiments could be performed in the laboratory rooms of the camp at Dachau. I knew of them because of the Harberg, S. G. Distress and Cold meeting.

Q. Had you ever been in Dachau yourself?

A. No, I have never been in Dachau.

Q. Now, witness, the next sentence in the document says that you did get in touch with Professor Eppinger and the Reichsfuehrer SS, is that correct?

A. It is a fact anyhow that Professor Eppinger was informed by our office probably by telegram or telephone to the Vienna Medical office, and I assume that the writer of this report did not mean that I did get

in touch with the Reichsfuehrer-SS personally because I did not know  
Mr. Simler. He probably means that if any contact was necessary it  
would be established through the office of the Chief of the Medical  
Service to which I belonged.

Q. Did you not say that the responsibility for the planning  
and execution of the experiments would have to be with the Chief of the  
Medical Service?

A. In view of the experiments which Mr. von Sirony had carried out on his own initiative, and because of the various other experiences with the Technical Office which are testified to by the affidavit of Dr. Heinrich also which has been offered in evidence, I said that these experiments were a purely medical matter and therefore would, of course, fall under the responsibility of a medical office.

Q. Witness, it is now necessary to discuss the distribution list of this document. Please look at it and tell me whether the offices listed there were actually concerned with the questions discussed at these meetings, or interested in them, at least?

A. First, there are three Navy offices about which I know nothing, but since the Navy was represented I assume that these offices were interested. The Research Institute of the MDL and OMDL was the Luftwaffe agency concerned with technical research. Since I was not referent for research at the time I don't know whether the referent Dr. Pensinger was interested or not. Later, from the files which I took over, I saw that this office had nothing to do with the problem. Then it lists L. In. 16. That was the Inspectorate of the Luftwaffe, No. 16. It was the Inspectorate for Distress at sea which was, of course, interested.

Q. Now come the offices which were to get this document for their information. How about them?

A. First, it lists three offices about which I know for certain that they had nothing to do with the problem. That is, the Medical Experimentation and Instruction Division of the Air Force at Jüterbog; the Testing Institute of the Luftwaffe at Achlin; and the Institute for Aviation Medicine of the D.V.L., Berlin-Glücksb. I need not repeat that in detail now, but I can say for certain that these three offices never dealt with problems of sea distress, and I don't know why they are listed. I should like to point out briefly the next office is L. In. 14. That means the office of the Chief of the Medical Service of the Luftwaffe. The change of name had occurred at least six months before. The text speaks of the Chief of the Medical Service, but here





Unfortunately, my suggestion was not accepted. It was said that the discussion on the 25th had shown how the experiments were actually to be carried out; I thought that the contents of this document were obsolete; and, in the summer of 1964, there were more important things to do than to waste paper. On the next occasion, however, I told either Christensen, personally, or his representative, Schickler, either by telephone or personally, that I had found a number of mistakes in this document, and I asked them if they issued another such document to have it signed before hand by some office which knew something about the subject.

Q. Mr. President, in this connection I wanted to offer an affidavit of the person in charge of these conferences and the signer of this document, Chief Engineer Christensen, which Mr. Christensen gave me personally in the English copy of Nouenurme. Unfortunately, this important document has not been translated yet and, therefore, I am unable to offer it in evidence. But, in view of the fact that this is perhaps the most important document in my entire case, I ask for permission to submit this Christensen affidavit later in a supplementary document as soon as the English translation is available. I should like to take the liberty of pointing out that Christensen fully confirms everything that the witness has just testified, especially the fact that this document was written down by memory by Mr. Schickler at least three days after the meeting of the 20th of May for the purposes of the Technical Office, and that there was no shorthand record during the meeting. I do not want to say anything else, but I should like to have permission to submit the document later.

MR. HARDY: May it please Your Honor, I request that the comment of counsel concerning the Christensen affidavit be stricken from the record until such time as the affidavit is presented in court.

THE PRESIDENT: The comment of counsel is immaterial. The document may be offered as soon as the translation is ready. If the document is not offered, the comment of counsel will be stricken.

MR. MEX: I beg your pardon. I should like to remark one thing. It is three weeks since we sent the document in for translation. I assume that the Language Division is over-worked. That is the only explanation I can think of. I am very sorry, but in this matter I certainly don't bear the blame.

THE PRESIDENT: (Interrupting): Nothing I said was meant as any reflection upon counsel. Simply the fact that a comment on a document to be offered in the future is entirely immaterial. I am entirely aware that the Translation Division is behind in its work and it is no fault of counsel at all.

Court I

DR. LARK: May it please the Tribunal, I shall continue with my interrogation of the witness.

Q. Witness, what did you do after these two meetings of the 19 and 20 of May 1944?

A. These two meetings took place in Berlin. After the meeting on the 20th I went back to my office, which as I have said was about 60 kilometers south of Berlin in Saarlouis. I immediately reported to my top chief, Oberstarzt Dr. Maerz, about which meetings he decided that Professor Springer should be informed immediately. He also decided that Professor Heubner and Professor Netto should be asked to attend the conference as experts for the Chief of the Medical Service. He also decided that he himself would attend the meeting on the 25th, and I believe it was on the evening of the 21st of May, possibly as late as the 22nd. That I called up Dr. Schafer in Berlin and asked him to inform Professor Heubner and asked him to attend the meeting on the 25th. That was because I knew that Dr. Schafer knew Heubner personally, and of course I did not want to call up Professor Heubner by telephone and thought it better if Schafer would go and ask him personally.

DR. LARK: Your Honor, this Professor Heubner who has just been mentioned is a scientist who still enjoys international renown. In order to show that we offer Becker-Freysong Document No. 140, on page 4 of Becker Freysong Document Book 7. This will be Becker Freysong Exhibit 27. It is an excerpt from the German Medical Weekly of 17 January 1947. I quote:

"The Constituent Assembly of the Scientific Senate of the German Central Administration for Public Health in the Russian Zone took place in Berlin. The Senate, consisting of leading German scientists and medical practitioners, is an autonomous corporation independent of the central ad-



COURT I

ministration, with a self elected Board, and has advisory tasks. Professor Heubner was elected chairman and Professor Brugsch vice-chairman."

I offer this excerpt as proof of how thoroughly the question of whether these experiments were necessary was examined.

Q. Witness, what was the essential content of the discussion of the 25th of May?

A. My department chief and I hoped that it would result from this conference that no further experiments would be necessary. Consequently, the first question put before the professors, that is Professor Eppinger, Professor Heubner and Professor Netze, was whether they would regard new experiments necessary before Bernatit should be introduced.

Q. Witness, did you yourself consider further experiments necessary? You remember that the Prosecution at one time said that this question could have been solved by a chemist in one afternoon?

A. I don't consider the problem so simple that a chemist could have solved it in one afternoon, but perhaps I may come back to that later. I myself did not consider further experiments necessary. That can be seen from everything that I have already said on the subject. Moreover I should like to point out that the representative of the office of the Chief of the Medical Service at the meeting of the 25th was not myself, but my Department Chief, who was an Oberstarzt.

Q. Was that Dr. Maerz?

A. Yes, Dr. Maerz.

Q. For what reasons did you later participate in the planning and preparation for the experiments, if you yourself did not consider them necessary?

A. That I did not consider these experiments necessary

Court I

was my own private scientific opinion. On the basis of my position I thought it was my duty, however, to participate in the planning and preparation of those experiments.

Q. Witness, can you explain those official reasons or considerations which you just mentioned?

A. I shall try to do so briefly. One must make a distinction between medical reasons, economic or technical reasons, and military reasons.

DR. MARX: Mr. President, this explanation will take some time. I should like to take the liberty of suggesting that we adjourn now, because I personally am still suffering a little from pains in my foot and would be very grateful if I could sit down.

THE PRESIDENT: The Tribunal will be in recess until 9:30 o'clock tomorrow morning.

(Thereupon a recess was taken until 9:30 o'clock May 23, 1947.)

Official Transcript of the American Military  
Tribunal in the matter of the United States  
of America, against Karl Brandt, et al,  
defendants, sitting at Nurnberg, Germany,  
on 23 May 1947, 0930, Justice Leals presiding.

THE MARSHAL: Persons in the court room will please find their  
seats.

The Honorable, the Judges of Military Tribunal I.

Military Tribunal I is now in session. God save the United  
States of America and this Honorable Tribunal.

There will be order in the courtroom.

THE PRESIDENT: Mr. Marshal, you ascertain if the defendants are  
all present in court.

THE MARSHAL: May it please your Honor, all defendants are present  
in the court.

THE PRESIDENT: The Secretary-General will note for the record the  
presence of all the defendants in court.

Counsel may proceed. Dr. Brandt, if because of your injury you  
find it inconvenient to stand you may conduct your examination  
seated. Arrangements can be made for a microphone for you. There  
will be no objection to your examining the witness from a chair instead  
of standing.

DR. BRAND (Counsel for Becker-Freysang): Mr. President, I thank you  
but it will be possible for me to stand. With the permission of the  
Tribunal I shall continue with the direct examination of the witness,  
Dr. Becker-Freysang.

DR. HERMAN BECKER-FREYSANG - Resumed

DIRECT EXAMINATION (Continued)

BY DR. BRAND (Counsel for the Defendant Becker-Freysang):

Q. Witness, we stopped yesterday with the question that you from  
your personal point of view, from your personal scientific point of  
view, were of the opinion that these experiments were not necessary

but that on the basis of your office you had to participate in the preparations and plans for these experiments. Please comment briefly and tell us what motives you followed here.

A. The last thing I said yesterday was that there were, first, medical considerations, second, economic and technical considerations, finally, military considerations. The medical considerations affecting me personally, I have already described. I need not go into them further. In contrast to my opinion, Professor Eppinger considered further experiments necessary in order to determine whether berkatit should be introduced or rejected. I need not go into all the scientific reasons which Professor Eppinger gave at the time. I can only say briefly that Professor Eppinger had seen Dr. Von Sirany's experiments in Vienna, and in the meeting on the 25th of May in Berlin he pointed out that in Sirany's experiments he had observed that one or several of the experimental subjects Sirany had shown a salt concentration in the urine which was far above what science had normally assumed up to that time. Therefore, a number of reasons of scientific theory he considered it possible that with the aid of berkatit the body was enabled to tolerate large quantities of salt such as are contained in sea water, without damage. Eppinger insisted on his point of view and he persuaded Professor Heubner, the second important scientist present, to join him in his opinion.

Q. Witness, you have explained the medical point of view. What about the technical one?

A. I touched upon that briefly yesterday. I should like to sum it up as follows: If it had been possible to introduce a drug just as good as ufatit, that would have been a great advantage. For this reason, of course, it would have to be tested again.

Q. Now, please go into the military point of view briefly.

A. The military point of view in the summer of 1944 was characterized by the fact that the Luftwaffe as well as the Navy were in an



unfavorable position, in such a position remedies at sea are more important for an air force than when it is victorious. On the other hand, I have the point of view that if the wrong decision is reached the consequences of this wrong decision will be carried not by Mr. Christensen or the technical office or myself but the flyers in distress at sea. For this reason I considered it my absolute duty to do everything to convince the technical office and Professor Espinger that barkitt could not be introduced.

Q. Witness, you have just said that, on the basis of Professor Espinger's opinion, it was decided that further experiments were necessary. Did that solve the duties of this conference of the 25th of May?

A. That solved one point - the question of whether further experiments were necessary. The second question was how these experiments were actually to be carried out.

Q. The final conditions for the experiments then did not agree with those in the letter written by the Technical Office. Please describe briefly the conditions set down on the 25th of May, 1944, but please be as brief as possible so that we can get on.

A. First of all, the conditions given in this report of the Technical Office could never have been seriously discussed by doctors. The conditions decided upon on the 25th of May were as follows: The whole experiment was to be carried out in various series of experiments. Every experimental group was to contain seven or eight people. All the subjects were to be given a careful physical examination before the experiment. Before the experiment proper, there was to be a preliminary period of eight to ten days. In this preliminary period the subjects were to be kept under careful observation and also they were to be fed with the fliers' ration of the Luftwaffe which contained 3500 calories per day per man with about a hundred grams of fat and eight grams of uretoin. Also the necessary urine and blood tests were to be taken in this preliminary period. For all who were to drink sea water the total amount of sea water was determined and the amount of the individual doses; that is, the amount of sea water taken at one time. The first group was to drink 500 cc of sea water per day with Burkattit. The second group was to drink 1,000 cc of sea water per day, also with Burkattit, and there was to be a control group which was to get normal drinking water, 1,000 cc per day. This normal drinking water was later produced during the experiment by treating sea water with cefitit, Schaefer's drug. But I want to point out that this was not a test for Nafatit because no one, not even any

representatives of the Technical Office, had any doubt of the effectiveness of this drug. It was not necessary to include Wofatit in the experiment. A fourth group was to drink sea water without any addition, and a fifth group was to get nothing at all to eat or drink. I must explain something about the last two groups. The group which was to drink only sea water was chosen in order to determine what was to be done if, for technical reasons or reasons of raw material, the Wofatit could not be introduced and, for medical reasons, Berkatit was not taken. The opinions of practicing physicians, as well as the scientists, as to whether it was better to go without water entirely or to drink small quantities of sea water, were divergent. Some thought it better to go without water entirely. Others thought there would be certain advantage in drinking small quantities of sea water. In order to get a decision, these two groups were included in the experiment.

Q. Now, how about food?

A. The four first groups had the full fliers' ration with 3,500 calories a day for ten days before the experiment. During the experiment they were given the emergency rations. These emergency rations contained 2,274 calories and consisted of chocolate, zwieback and dextrose. I happened to be in a position to give the number of calories of the English sea emergency rations of 1943 per man per day. This was 448 calories per day.

Q. How many?

A. 448 calories a day. Considering this figure, the German emergency ration, which included 2,274 calories altogether, would be equivalent to the English ration for five and one-half days. In an affidavit submitted by the prosecution, it was said that during the experiments the people got only a little chocolate and some zwieback, but chocolate and zwieback are very concentrated forms of food. That is best shown by the composition of the English emergency rations. The 448 calories of the English emergency rations are composed of one ounce of biscuit, one ounce of pemmican, one ounce of milk tablets, and one ounce of chocolate. This is not very much in quantity, but

it is very concentrated food.

Q. In this connection, I offer the affidavit of Dr. Hanson in Document Book 3, #41, on pages 165 to 167, which will be Becker-Freyseng Exhibit # 28. I should like to read excerpts. Dr. Hanson is a renowned physiologist who, since the 1st of July, 1945, has been working at the Physiological-chemical Institute of the University of Halle. I read # 2:

"For cases of distress at sea, the German Luftwaffe had the following facilities at their disposal:

- a. The emergency ration containers in rubber lifeboats.
- b. The sea emergency ration buoys dropped by plane.

One emergency ration container in a rubber lifeboat contained the following items: mineral water, windproof matches, cigarettes and Pervitin Army biscuits, chocolate and Dextro-energizers. Total calorie content of the food: 2,474 calories."

Then I continue with #3:

"The food supplied to the flying personnel of the Luftwaffe in action at the front consisted of the general basic ration and the airman's special ration. The first consisted, in 1943, of 3,700 calories per day per man, in 1944 of 3,500 calories with 97 grams of protein, 81 grams of fat, and 569 grams of carbohydrates."

A. Perhaps I may explain briefly the fact that the fifth group, which was to get no water, got nothing to eat either. To a layman that may sound rather cruel. In reality, it's the other way around. Yesterday I explained briefly that with our food we take in a number of substances, or rather that a number of metabolic final products are created in the body, from the food, which must be eliminated through the urine. If I do not give the body any liquid, but do give food, the need for water will be increased and that will subjectively increase the thirst. It is therefore quite general medical experience, from thirst cures, that they are much more easily tolerated if no food is taken during them. The same experience is



reported in all cases of shipwreck and, as an example, I should like to quote only one source. That is the paper by a German Navy Stabsarzt Dr. Baer in the magazine "The German Military Doctor" from July, 1944. It is a report on three shipwrecked persons who were rescued after thirty-seven days. I quote:

"Because of the extremely small quantity of water, after four to five days the majority of the shipwrecked persons could no longer eat the biscuits since they remained in the mouth as a dry powder and it was not possible to swallow this powder without any liquid."

I believe this brief quotation shows why we decided that this group would not be given any solid food.

Q. Witness, we now come to the duration of the experiment. Were definite times set, which had to be kept? Please be brief since you have already spoken about the length of the experiments. I mainly want to know what was decided on the 25th of May in this respect.

A. No, the duration of the experiments was not determined beforehand, because that was the purpose of the test; that was what was to be determined.

Q. Witness, you know that the Prosecution finds the main charge against you and your co-defendants in the fact that, according to the so-called minutes which we have quoted before, an experiment was to be carried out with a definite duration of twelve days.

A. I went into that in considerable length yesterday. I need not repeat. I can only say briefly that these twelve days figured in the deliberations because it was said that the drug, which was to be taken, had to be tolerable for at least twelve days. That is, of course, something quite different than saying that the experiment had to be continued for twelve days even if the drug cannot be tolerated.

Q. What was to happen to the subject after the experiment?

A. The experiment proper was to be followed by a period of ten days, during which the subjects were to be kept under careful observation again so that any damage could be recognized. Secondly, during these ten days, they were again to get the fliers ration of food with three and one half thousand calories a day. Third, the final consulting tests were to be taken.

Perhaps one word on the possible harmful effects. According to everything that medical science knew then and knows today, no such after effects are to be expected. This is only a precautionary measure in order to overlook nothing.

Q. Witness, in the conference of the 25th of May was it said that the experiments would be carried out on prisoners?

A. No, that was not mentioned for the following reasons. First of all, both my department chief, Oberstarzt Dr. Herz, as well as I, expected

that Professor Eppinger and Professor Heubner would not consider further experiments necessary. Secondly, for this reason we had done nothing to decide the question of the experimental subjects. Besides, my departmental chief expected that we could get the necessary subjects from the Medical Academy of the Luftwaffe. Finally, Generaloberstabsarzt Schroeder was on an official trip in France at that time and only he could decide this question. On the 25th no such decision had been reached yet.

Q. At the conference of the 25th of May was it said who was to carry on the experiments?

A. Yes, that was discussed. Professor Eppinger suggested the chief physician of his clinic, Professor Beiglboeck.

Q. Did you know Professor Beiglboeck personally at that time?

A. No, I did not know Professor Beiglboeck, but I knew his name from literature of course.

Q. On the 25th of May, was it not considered that the experiments might be carried out in the clinic of Professor Eppinger in Vienna?

A. Professor Eppinger suggested that, but when it was discovered that it would require 40 subjects for a period of four weeks he withdrew his suggestion again because that would not have been possible in his clinic.

Q. Did Professor Eppinger want to supervise the experiments himself?

A. Yes, he wanted to and he was supposed to.

Q. Witness, did this discussion of the 25th of May go off without any disruption?

A. No, there was a little disturbance in the morning of the 25th of May. There was one of the feared American daylight raids on Berlin, which forced us to continue the discussion in the air-raid shelter, which is perhaps significant as this divided us into several groups and it is possible that not everyone heard every word that was spoken.

Q. Your Honor, to prove what has just been said regarding the meeting, the Defense Counsel of the defendant Scheefel will submit an affidavit by

the Berlin Professor Dr. Jeubner and the Kiel Professor Dr. Netze.  
We therefore need not go into this question any further.

Witness, what happened after the discussion of the 25th of May?

A. After the discussion on the 25th of May it had been decided that the experiments were to be carried out. My departmental chief told me to find out whether we could get the necessary subjects from the Medical Academy of the Luftwaffe or from a Luftwaffe hospital. I did not succeed. At the end of May on the 29th or 30th, Generaloberstabsarzt Professor Schroeder came back from his trip and in the presence of my departmental chief I reported to him on this matter and he decided that he himself would first talk to the commander of the Berlin Medical Academy and to the biggest and best equipped Luftwaffe hospital in Brunswick in order to carry out the experiments at one of these two places. After a few days, I was called to the chief again and I heard that his efforts with the Medical Academy of the Luftwaffe in Berlin and with the Luftwaffe Hospital in Brunswick had been unsuccessful. Together with my departmental chief, I suggested to Generaloberstabsarzt Schroeder that we should try to get prisoners as experimental subjects; a question which was completely new to Professor Schroeder.

Q. Witness, did you not inform Dr. Schroeder that you personally had already tried in vain to obtain these 40 subjects from the Medical Department of the Luftwaffe and from the Medical Academy of the Luftwaffe?

A. Yes, I told him that in my first report.

Q. Will you please continue then?

A. I told Professor Schroeder what I knew myself at the time about the prisoners. First that there were a number of examples in the medical history of the world of such experiments being carried out on prisoners. I pointed out that under his predecessors, Generaloberstabsarzt Professor Siepke and Holzlochner, such experiments had been carried out and finally I pointed out that the sea-water experiments were



absolutely harmless, that nothing could happen to the subjects and that I was convinced that we would find enough volunteers among the prisoners for these experiments because before and after the experiments they would get especially good food.

Professor Schroeder asked me whether I knew any details about how Holsloahner had obtained his subjects. I had to answer in the negative. I could only say that I knew that Rascher had said in the Nurnberg meeting that the chief of the German Police had supplied the prisoners. Professor Schroeder said that he would talk to the chief of the Medical service of the German Police.

Q. Witness, did you not tell Professor Schroeder on this occasion that they were condemned criminals; criminals sentenced to severe penalties?

A. Yes, I am sure that I said that.

Q. Your Honor, I should like to refer at this point to the Affidavit of the Commander of the Medical Academy of the Luftwaffe which is Schroeder Exhibit No. 19 in the Schroeder document book on page - it is document 25 on pages 72-73 and has already been accepted as an exhibit. This Affidavit confirms that the experiment was to be carried out in the Medical Academy of the Luftwaffe and also the Chief Physician of the Hospital in Brunswick, Generalarzt Harriehausen has made an Affidavit which is Dr. Becker Freysong 43 on pages 168-170 of document Becker-Freysong No. 3, which I should like to offer in evidence as Exhibit No. 29. I shall read the last paragraph on page 2. I shall not read the rest of the Affidavit. Harriehausen writes:

"I recall very well that I was once asked whether it would be possible to carry out control experiments with sea-water, made drinkable by various methods, on patients suffering from minor complaints and the slightly wounded in the Luftwaffe Hospital in Brunswick which was under my supervision. Whether Prof. Dr. Schroeder or one of his representatives put this question to me, and at what exact time, I cannot recall exactly. It could have been in June 1944. I had to refuse the undertaking of such experiments, as I had strict orders to send all patients and wounded who could be released back to the troops; thus I did not have command of Hospital in time suitable for these experiments. Furthermore, the hospital was overcrowded at this time, and, therefore, was not suitable for scientific experiments. I can also recall clearly that, at a later time, I again spoke to Prof. Dr. Schroeder about this matter, and that he expressed his regret on this occasion that these experiments could not be carried out in the Luftwaffe Hospital in Brunswick which was under my direction."

This Affidavit is signed and certified by the notary Hermann Brum on the 9 January 1947. This Affidavit was to have been offered in the Schroeder case but the English translation was not yet available. I withdrew it in the Schroeder case and offer it as a Becker-Freysong

Exhibit.

Witness, you said that Professor Schroeder was to speak to the Medical Chief of the German Police, that is Reichsarzt SS Grawitz, do you know whether he actually talked to him, and what result the discussion had?

A. Yes, I know that he did talk to him although I myself was not present, but after a few days my department chief ordered me to send a letter to the Reich Minister of the Interior and the Chief of the German Police, or rather draft such a letter, since in the meantime Generaloberstabsarzt Schroeder had talked to Grawitz. Grawitz had said that he was willing to cooperate but in order to deal with the matter officially he would need a brief letter. He said the letter need only contain the necessary information since Generaloberstabsarzt Schroeder had discussed the matter orally with Grawitz.

Q. Witness, I shall show you document No. 185, Prosecution Exhibit 134, page 16 of the German, 18 of the English document book 5, see under experiments. This is the letter to the Reich Minister of the Interior. Did you draft this letter?

A. Yes, I made the first draft for this letter. The department chief and the chief of staff changed a few minor points before it was signed by Schroeder.

Q. And the letter has the signature of your referent, does it?

A. Yes, it says 55 and the referat 2-7.

Q. At that time you were a referent and not an assistant referent any longer?

A. I had been a referent from the 15th of May on. The letter is dated the 7th of June.

Q. When did the referent, Professor Anthony, leave this office?

A. Anthony left about the 15th of May.

Q. Now how was this salutation formulated? I mean "Highly respected Reich Minister?"

A. This was at the special request of Generaloberstabsarzt Schroeder.

Q. Your Honors, this is a letter of the Medical Inspectorate for the Reich Minister of the Interior and the Reich Fuehrer SS Himmler, which is the English document No. 185, document book 5 of the Prosecution, Prosecution Exhibit 134. Before I go into a discussion of this document with the witness I should like to point out that at the beginning of this document there is a translation which we consider incorrect. It is the first sentence which has the words "voluntary experimental subject". In the English translation, which unfortunately we do not have officially yet, the punctuations are different from the German, and the "voluntary experimental subjects" was intended to refer to the new experiments and in the English it seems to refer to the former experiments.

MR. MAROFF: Your Honors, this is a point of considerable importance. Indeed for such a problem as this, it's being discussed should be dispensed with as well as argumentation of it before the Tribunal and the original document should be brought into the Court room by the Clerk and turned over to the interpretation department to construe as to whether this English version is correct. The Prosecution maintains that it is one hundred percent correct. We have had it checked.

THE PRESIDENT: The Clerk will procure from the Secretary General's office the original of this document No. 185, and the document will be submitted to the interpreters for a report on that to the Tribunal.

DR. HANK: Mr. President, on the 3 of May I submitted an application through the Secretary General about this translation but no decision has been reached yet. I have, therefore, had a translation prepared and my opinion corresponds to the wording of the German original document. May I give this translation to the Tribunal because in my opinion it is vital. This first sentence is the one on which the Prosecution wants to put great emphasis. I should like permission to



submit this translation which was prepared by an Englishman and then the final translation by the interpreters may be made later but it seems to me important that the tribunal be given this translation.

THE PRESIDENT: Will counsel for the benefit of the record give the name and position of the interpreter who made the translation to which counsel has just referred?

MR. BARRY: Your Honors, I might as to at this time that the translation division and the interpretation division of the Office of Chief Counsel for war crimes has certainly tested all interpreters and translators before a person can qualify as an interpreter and it might be well that this version of Dr. Marx be submitted to the interpretation department and that they can take this into consideration when they are interpreting the document.

THE PRESIDENT: When counsel for defendant has answered my question I was going to suggest that.

DR. DIRK: Mr. President, I don't know personally. My staff told me that a translation had been prepared and when I asked whether prepared by a German or an American I was told by an Englishman with the necessary knowledge of the German as well as the English.

THE PRESIDENT: The Tribunal would like to be advised the name of the person who made that translation, if that can be furnished for the record.

DR. DIRK: I have just been informed that it was a Mr. Dirks.

THE PRESIDENT: Does this gentleman who made the translation, this Mr. Dirks, hold any official position here with the American or British Government?

DR. DIRK: As far as I know he is a member of the American Military Government and translates for the General Secretary, but I don't know exactly. I don't know him personally at all.

THE PRESIDENT: When the original document is presented to the Tribunal the translation in the possession of counsel for the Defendant will be submitted to the interpreters together with the original document and the interpreters will then consider the matter and report in open court to the Tribunal.

MR. HARDY: Did the Secretary General bring in the exhibit? The interpreters can take this up during the recess I think.

THE PRESIDENT: The Tribunal has instructed that the original document be brought into court.

MR. HARDY: I am not clear whether, your Honor is giving the translation to the interpreter at the same time.

THE PRESIDENT: That is what I have instructed to be done, that the interpreter should be furnished this interpretation with the document. The interpreter will then report in open court to the Tribunal. The interpreters will consider this matter during the morning recess which will be called in a few minutes.

BY DR. DIRK: Witness, please let us discuss the contents of this document. The first sentence reads: "Earlier this made it possible for

the Luftwaffe to settle urgent medical matters through experiments on human beings." What experiments does this refer to?

A The experiments that I knew about, that was Holzknecht's experiments.

Q Now I go on to the next sentence: "Today I again stand before a decision, which, after numerous experiments on humans and also on voluntary human subjects, demands final resolution." The Prosecution considers this sentence so important that in 16 December 1946 on page 530 of the German transcript they said so about it. I quote: "I should like to call the attention of the Tribunal to the word's 'voluntary subjects'. This proves that they (meaning the defendants) had finished their work on volunteers and had to have recourse to inmates of concentration camps." Will you please comment on this, witness?

A Since this seems to be the most important sentence in the whole question of the water, I would like to go into some detail.

MR. HARDY: May it please your Honor, I don't think it necessary to go into detail in this question until we have the translation settled. It would merely take up the time of the Tribunal unnecessarily.

THE PRESIDENT: I think this matter should be delayed until after the interpreters have reported on the translation.

DR. MARX: Very well. Mr. President, may I suggest that we recess now so that I can discuss this point with Dr. Becker-Freysong since this is one of the most important points for the case.

THE PRESIDENT: The Tribunal will now be in recess.

(A recess was taken.)

THE PRESIDENT: The Tribunal is again in session.

THE PRESIDENT: Are the interpreters prepared to report to the Tribunal on the translation of the document in question?

THE INTERPRETER: Your Honor, the original German of this passage reads as follows:

"Ich stehe heute wieder vor einer Entscheidung, die nach zahlreichen Tier und Menschenversuchen eine endgültige Lösung verlangt."

The version of this passage, proposed by the Prosecution in English is as follows:

"Today, I again stand before a decision, which after numerous experiments on animals and voluntary human subjects, demands final solution."

and the version, proposed by Counsel for Defendant Becker-Freysang, is as follows:

"Today, I again stand before a decision, which after numerous experiments on animals and humans demands a solution on voluntary experimental subjects."

In the opinion of the interpreters, the German sentence is ambiguously phrased and is open to both the Prosecution's and the Defense's construction. The fact which might make the Prosecution's interpretation somewhat more likely is the following: if the writer of the letter had intended to emphasize that the subsequent experiments were to be carried out on volunteers, he could have made his meaning perfectly clear by placing the phrase "on voluntary subjects" after the phrase "a final solution", or by inserting an adverb such as "now", or at least a comma, after the word "human experiments" and before the words "on voluntary subjects".

THE PRESIDENT: It appears from the report of the interpreters that the meaning of the original letter, as written in German, is at least ambiguous. The matter is open for argument, also open for further translation and further study by competent translators if either side desires to produce them. The Tribunal, of course, expresses no opinion



23 May 44-JF-7-Sullivan (Int. Brown)  
Court I

at this time as to the meaning of the letter, that is a matter for  
argument which will be later considered.

DR. WEA: Mr. President, I have taken notice of what the Interpreter said, but I have failed to hear the position of the Prosecution with reference to the assertion by the defense to the effect that neither the translation nor the interpreters have taken into consideration the two punctuation marks, which cannot be found in the German original, but which have been inserted into the English translation. That has brought about a translation to the disadvantage of the defendant. If it was stated that those two commas were erroneously inserted, we could then discuss the question as to whether the sentence is ambiguous or not. First of all, however, it would have to be stated that those two commas were wrongly inserted. They do not correspond to the German original.

THE PRESIDENT: It will seem that the matter might best be approached if the interpreters will make a written report and file one with the Secretary General, one with the Prosecution and one with Defense Counsel and one copy - with the Tribunal -

MR. HARDY: Your Honors --

THE PRESIDENT: Just one copy for each member of the Tribunal. Then the matter in so far as the mechanical translation is concerned could well be approached by written briefs by the Prosecution and by Defense Counsel, and any evidence which would throw any light on the subject may be offered, but the main argument up to the meeting could be more appropriately conducted and more conveniently by everybody by written arguments as to the meaning of the words.

MR. HARDY: I might add at this time that the language division of GCO? W.C. has several referees therein, one of which is the translation division or section and one of which is the interpretation section. Mr. Paul Johnston, who is chief of the translation section, I am informed has already prepared an extensive memorandum concerning this particular passage in the document 185. The Prosecution has an intention of submitting briefs or arguments on this point, but we will however make available for the defense counsel and tribunal the memorandum submitted by the Chief of the Translation division.

THE PRESIDENT: The Report of the Interpreters will be submitted to the Tribunal and then any documents which they may add and names can be added to the report of the Interpreters and the matter submitted to the Tribunal.

DR. MARK: Mr. President, permit me to put in an application in writing and also permit me that a German linguist who also knows English can express his opinion regarding this particular passage.

PRESIDENT: Certainly defense counsel may follow the same plan which is to be followed by the Prosecution.

MR. HARDY: Your Honors, in that regard I have a point to make. It is stressed this much importance on this passage, and if any opinion may be given by translators I think the translators should be qualified merely by tests, for instance when a translator is hired by OGC T.O.--

THE PRESIDENT: The translators may be called as witnesses and submitted to an examination as to their qualifications, and either party, if they desire, may do that. That applies, of course, to both parties, translators on the part of the Prosecution and translators on the part of the defendant.

DR. MARK: Your Honors, I shall then wait to see how this matter is decided upon by the translators and experts and shall continue with this point in my case later.

Q. Witness, please state your point of view briefly regarding the rest of the contents of this letter which is very well known to you. There comes now the passage regarding the severe symptoms of poisoning. Since this matter has already been dealt with, you can touch upon it very briefly now.

A. What is said here about the danger involved in the Berka method refers only clearly to the use of berka tit in practical use during sea emergencies. What is said here about the fact that the method must be useable for twelve days running, the words here speak for themselves, namely the practical demand for a twelve day period of use, and this does not mean that each experimental subject would be treated with this berka tit for twelve days, and then in the next sentence

it is stated what I myself know about the possibility of experiments in the camp Dachau, namely, that there were suitable laboratories there.

Q. You are talking now of the forty healthy experimental subjects who must be made available for four weeks and then it goes on, as it is known from previous experiments that laboratories existed in the Camp Dachau, and therefore this camp would be suitable, is that what you are referring to?

A. Yes.

Q. Now in the last point in that document; and I quote:

"Due to the enormous importance which a solution of this problem has for soldiers of the Luftwaffe and Navy who have become shipwrecked, I would be greatly obliged to you, my dear Reich Minister, if you would decide to comply with my request."

You are writing then of the enormous importance attached to the solving of this problem. In this connection, let me remind you of the following, witness: It could be said that you really couldn't speak at that time of the enormous importance of solving this problem because it is was in the summer of 1940 and it could be said that the situation at that time was not such as to make this solution absolutely necessary. What do you have to say about that?

A. Let me refer to what I have already said that in my opinion such a method is of relatively greater importance for an inferior air arm than for a superior one. An inferior air force will suffer greater casualties and losses and will be more seriously affected by these losses than would a superior air arm.

Q. Witness, we have now reached the end of this document. What happened in this matter after the letter was sent off?

A. First, we waited for the answer from the minister of the Interior and Chief of the German Police and in the meantime Professor Spielbeck was told to report to the office of the Chief of the Medical Inspectorate.

Q. Did you receive a prompt reply to this letter and did you do anything to expedite matters?



A. He waited a long time for the reply and I believe that finally the answer came only over the telephone four or six weeks after the letter was sent out. I myself had no reason to expedite or hasten the matter.

Q. What had happened in the meantime to Professor Weiglboeck?

A. At the middle or end of June Professor Weiglboeck came to our office and stayed in Berlin for two or three weeks to study the newest literature on the problems of thirst contained in the libraries in the University in Berlin, and then at the beginning or the middle of July, when news came from the Reichs Arzt SS that the experiments could be carried through he went to Dachau.

Q. Now document book 5, page 20, of the English book, document No. 179, and on page 22, document No. 183, Exhibit 186, the first document is a letter from Grawitz to Himmler of the 28th of June 1944, and the second is a letter from Brandt to Grawitz, dated the 8th July 1944. Now tell me, do you know these two letters and the events discussed in them.

A. No, from the letter itself it can be seen clearly who sent it off and to whom it was addressed. This is purely an inter-office matter within the Police and SS office of the fact that Himmler was making available gypsies for these experiments, which I found out through Professor Weiglboeck only after the conclusion of the experiments. So long as Professor Weiglboeck was in Berlin he knew nothing of that decision either.

Q When did you find out then that gypsies were to be used as experimental subjects?

A That they were to be used I never found out. I just said that I found that out only after the experiments were concluded.

Q How did matters develop further with Professor Beiglböck?

A First of all I discussed this matter with Professor Beiglböck and informed him briefly of what it concerned. I had assumed that Professor Eppinger had already talked with him since he had proposed as Director of the experiments. I assumed that had happened. Professor Beiglböck didn't know anything about the matter. I went with him to my departmental chief and introduced him to Generaloberstabsarzt Schroeder. Since those two superiors he received the order to carry out the experiments and from the departmental chief he received, in my presence, the most precise instructions as to how they were to be carried out. In the preliminary discussion that I had with Professor Beiglböck, Professor Beiglböck asked me if it would not be possible to carry out these experiments elsewhere because he wasn't very anxious to carry out experiments in a concentration camp. I then explained to him that we had already attempted in vain to have the experiments carried out elsewhere but that we had been unsuccessful. Professor Beiglböck said that he would still like to attempt that, attempt to have the experiments carried out in the hospital in which he was director in the Department for Internal Diseases. I told him immediately that probably he would have as little success as we had had but I said that, of course, it would be perfectly agreeable with me if he would make that endeavor. After we had seen the departmental chief, Beiglböck asked me again whether this was a specific military order to him. I answered in the affirmative and then Beiglböck said that that of course was from then on a binding order for him. The instructions that Beiglböck received for carrying out the experiments were briefly as follows: Under no circumstances were the experiments

to cause serious damage to the health of the subjects, and of course there should be no fatalities. That was perfectly clear. Secondly, the experiments were to be interrupted on the basis of that instruction if they became dangerous. The experiments should be carried out according to basic scientific practice but, of course, that was clear to both of us anyway. It was also clear to us that the experiments were to be carried out in such a way as to provide perfectly clear results. I also discussed the question of the voluntary consent of the experimental subjects with Professor Baigebach, not for legal reasons but for purely medical reasons. Professor Baigebach is an internist. I also was a doctor dealing with internal diseases and we both had had considerable experience with patients who had to be given a special diet because of purely therapeutic reasons in the clinic. Every doctor has had the experience that human beings depend to a great extent and want to keep on having their customary diet and every clinician has the experience that sick persons to whom certain foods are forbidden for medical reasons, desire that forbidden food in particular and even will procure it for themselves behind the doctor's back. For this reason Professor Baigebach asked me about the experimental subjects intended for these experiments. Should precautions be taken to see that they received only the food and amounts of water and tea water that were prescribed for the experiments? I answered that I did not think that particular precautionary measures should be taken because these were volunteers who because of their considerably better food which preceded the experiments were interested in the experiments and if it was explained to these people before the experiments what was here concerned I could not believe that Professor Baigebach would have any particular difficulties with the experimental subjects.

Q Witness, what did you see as the guarantee that the experiments really would be carried out according to this policy?

A I saw this guarantee on the one hand in the person of Professor Baigebach and secondly, in the person of Professor Eppinger who had

proposed his chief physician.

Q Did any other office have the right to interfere in any way with these experiments in Dachau?

A No, either by my departmental chief or by me, Herr Beilboeck was explicitly told that he had nothing to do with the rest of the camp of Dachau, that he was, so to speak, a little Luftwaffe unit of his own, and was subordinate only to the Chief of the Medical Inspectorate of the Luftwaffe. There was no such thing as any subordination to any authority within the camp of Dachau.

Q Witness, I put another Document to you now. It is in Document Book No. 5, page 23, NO-132, Exhibit 137. It is a letter from the Reichsfuehrer-SS Personnel Staff to Dr. Grawitz of 26 July 1944. In this letter is a description of a conference that took place on the 20 July 1944 at Dachau between Dr. Brandt and the signer of this letter, namely Sievers. Did you know anything of this discussion?

A No, I know nothing of it. It is possible that Beilboeck told me something about this after he came back but during or before the discussion I know nothing of it.

Q Was it not your duty to go to Dachau and to inspect or to observe?

A No. Perhaps one of my superiors could have given me that task but first of all it had been agreed with the technical office that Professor Eppinger was to supervise the experiments and that no one else was to concern himself with the experiments. Moreover, Dr. Beilboeck was carrying out the experiments with Dr. Eppinger's supervision and no one considered it necessary to give these two men any further supervision.

Q Witness, in that case you were not in Dachau? Did you know how things were then going on there?



Q I heard how they were going on only after Seiglboeck came back to Berlin or Sankow about the middle of September after the experiments had been concluded. It is surprising that, in the meantime, we had not been in touch with one another, but I must say, that in July and August, 1944, both Berlin and Danzig were subject to almost daily air raids and that it took over ten hours four or five weeks to reach their destination in Germany; that enormous difficulties confronted me wishing to make an official trip; and that, therefore, travel was limited to an absolute minimum. Nevertheless, I had a need to meet Professor Seiglboeck. He wanted to meet in Brandenburg on the Dan River, south of Kufstein, where we had business to attend to. We were both there, but my train was two days late and Seiglboeck had left long before I arrived. In the middle of September, I heard from Dr. Seiglboeck again and, in the presence of the department chief and myself, Professor Seiglboeck reported to Schroeder on how the experiments had been carried out. Before the beginning of the experiments, Seiglboeck had carried out an experiment on himself, using Berkatit, which lasted four and one-half days, I believe. Subsequently, he had begun the experiments with the experimental subjects. No damage was done to the health of the subjects. He showed us photographs of the subjects who looked strong and well fed. Having received 3,000 calories per day, most of the experimental subjects weighed more after the experiments than they had before and what interested us most of all was that the results were perfectly clear, at least as far as practical use of them was concerned; namely, that Berkatit could not be introduced into emergency sea equipment for medical reasons. Professor Seiglboeck then worked on the results of the experiments, and about two weeks later, the middle or end of September, 1944, he reported on this at a discussion attended by many people. This discussion took place in the Flak Tower in the Zoo in Berlin as a protection against the air raid danger.

Q Likewise, did you learn anything about the selection of the

experimental subjects or their behavior during the experiments?

A Of course, I asked Beiglbach how he had got his subjects and he said that both an SS officer and the prisoners themselves had confirmed the fact that they were volunteers. He even described one or two cases where inmates in Dachau made several efforts to persuade him to let them into the experiments so that they could make up for some bad behavior previously (Fluchtpunkt). Since this German word "Fluchtpunkt", which the prisoners used, was not known to me before, I asked what it meant and Beiglbach told me that this referred to a prisoner who had been caught while trying to escape, had been brought back to the camp, and was now in some punitive company or some other such unit and was receiving very severe treatment. This man, of course, wanted to cross that blot against him and I believe he applied to Professor Beiglbach, through a prisoner nurse, for permission to be used in the experiments.

Q Your Honor, I put in, in this connection, the Document Becker-Freyson, #3, Document Book 3, page 172 to page 174. Please give this Exhibit #30. This is an affidavit by Dr. Theodor Lasse. I quote from this Document, page 1. It can be seen that Dr. Lasse had to carry out clinical laboratory tests in these matters and knew them. I read page .....

THE PRESIDENT (Interrupting): Counsel, there is some difficulty with the translation. Just wait a moment.

BY DR. KERR:

Q Page 2, #7.:

"I" my chemical tests I observed no kind of disturbance or damage to the health of the experimental subjects, other than the well-known symptoms of thirst. My actual duties kept me in the laboratory, so that I was never in constant contact with the experimental subjects themselves.

"8. I personally was a witness when SS-Hauptsturmführer Dr. Flottmar and several other SS officers, whose names I can not remember,

explanation to Professor Dr. Beiglböck, at that time Luftwaffe Oberarzt, that the experimental subjects intended for the sea water experiments had all volunteered for this purpose."

"12. For 10 days before the experiments started, the experimental subjects received full special airman's rations. During the experiments they received sea emergency rations, and at the conclusion of the experiments they again received special airman's rations for 10 days."

"13. Members of the SS were never used as orderlies, nor did they help in any other capacity during these experiments."

"14. Several inmates, however, were employed as doctors and orderlies in these experiments."

Signed: Dr. Theodore Lase."

Certified by a notary. This is Exhibit 730.

Witness, we must now discuss a few documents put in by the prosecution in this connection. The first one is in Document Book 3, page 6 of the English book. This is Document No. 476, Exhibit 131. This is an affidavit by Dr. Konrad Schaefer. This is in Document Book 5, Your Honor, page 3. In this affidavit, there are a few passages that could lead to misinterpretations. Please say something about them.

A. I believe that Dr. Schaefer, when he is in the stand, can best correct these misinterpretations. I should like to point out again, Your Honor....

THE CLERK (Interrupting): Your Honor, it seems most unusual that this witness should correct an affidavit of the defendant Schaefer. Schaefer will be here in the witness stand and will be able to correct that affidavit if he has any corrections to make.

THE PRESIDENT: I understood that the witness made that statement. I don't know what the witness is going to say, but the defendant Schaefer would certainly be in a better position to correct his own statement.

The witness may proceed.

Q DR. BERK:

A I myself had just requested that Dr. Schofer clarify those misinterpretations. I believe that settles the matter.

Q Let me simply ask you, witness, to say something about #7 in this affidavit. He says here, and I quote:

"It was an open secret in the highest medical circles that the Berke method was used on inmates of concentration camps. It was also known that sea water, processed by the Berke method, was substantially the same as sea water and was, therefore, exceedingly dangerous. I was always of this opinion and personally advised Schroeder, Becker-Sroyseng, Anthony, Christensen, Berke and Schickler of this, my opinion."

Please say something about that passage.

A First of all, as to this question of the open secret is concerned. It was neither an open nor a closed secret. It was, as far as we were concerned, a perfectly irreproachable matter. So far as the highest medical circles are concerned - I don't know whether Dr. Schofer includes me in those circles. I never thought that I belonged to those circles - and so far as the exceedingly dangerousness of the Berke method was concerned, I can refer to what I have already said; namely, that I also held the application of the Berke method in practical emergency sea situations to be dangerous, but certainly did not consider it dangerous in experiments. Dr. Schofer is right in saying that I knew of his opinions about Berke's method.

Q But, witness, you remember that the prosecution spoke of the so-called toxicity of sea water.

A Yes, I heard that. I can say about that the following. Since the famous Theophrastus Bombastus von Hohenheim known as Paracelsus, who lived around 1500, it has been known in medicine that any material can be a poison. It all depends on the dose. I can kill a person with oxygen. I can even kill him with distilled water, but still



no one is going to assert that those two substances are poison. Regarding sea water, I may point out that for centuries sea water has been used for therapeutic purposes, even in large amounts, by doctors. I know, of course, that there is a difference between this doctor's prescription of sea water and our experiments, but I think, it is impossible to speak of the toxicity of sea water as such.

Q. Your Honor, I put in Becker-Freyson Document No. 44, pages 175 to 181 of document book 3. This will be exhibit 31. This is a recent description of the history of the use of sea-water as a drinking cure. This is written by Dr. Hermann Bruening. This document proves that sea water has long been used in medicine as a therapeutical means and if using less than 300 cc you do not have to expect diarrhea and also sea-water is used for intestinal infections such as typhoid and cholera. From this document, I may quote briefly. It is page 1. The book is entitled: "On the History of the Sea Water Drinking Cures, Methods and Indications," by Dr. Hermann Bruening, Director of the Rostock University Childrens-Clinic.

MR. GIBBY: I object to this Document, it is immaterial, Your Honor.

DR. MARZ: Mr. President, I believe I can dispense with reading the passages from the book, because I have already set forth what the essential points in this document are to which I wish to draw your attention. I ask that this document be accepted in evidence.

THE PRESIDENT: Counsel, on just what points do you offer this document? In other words, what do you think it tends to prove in the case, how will it be helpful?

DR. MARZ: This document shall prove first of all that sea-water is even used as a drinking cure and this proves that it is not in itself harmful, then it will prove in what amounts sea-water can be administered, that it causes no intestinal disorders and that on the contrary sea-water is used in treating intestinal infections such as typhoid and cholera. What can be seen from this document No. 44, Exhibit No. 31.

MR. GIBBY: This is a situation, Your Honor, comparable to Professor Ross with malaria. Some of the work he did with malaria was for the benefit of his patients, however Professor Ross does not maintain that malaria is harmless.

2. Your Honors, I put in Becker-Freyson Document No. 44, pages 175 to 181 of document book 3. This will be exhibit 31. This is a recent description of the history of the use of sea-water as a drinking cure. This is written by Dr. Hermann Gruening. This document proves that sea water has long been used in medicine as a therapeutical means and if using less than 300 cc you do not have to expect diarrhea and also sea-water is used for intestinal infections such as typhoid and cholera. From this document, I may quote briefly. It is page 1. The book is entitled: "On the History of the Sea Water Drinking Cures, Methods and Indications," by Dr Hermann Gruening, Director of the Rosstock University Childrens-Clinic.

MR. HUBBY: I object to this Document, it is immaterial, Your Honor.

DR. WARE: Mr. President, I believe I can dispense with reading the passages from the book, because I have already set forth what the essential points in this document are to which I wish to draw your attention. I ask that this document be accepted in evidence.

THE PRESIDENT: Counsel, on just what points do you offer this document? In other words, what do you think it tends to prove in the case, how will it be helpful?

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MR. HUBBY: This is a situation, Your Honor, comparable to Professor Ross with malaria. Some of the work he did with malaria was for the benefit of his patients, however Professor Ross does not maintain that malaria is harmless.

THE PRESIDENT: The Tribunal feels that the probative value of the exhibit offered is very slight. The Tribunal will admit it in evidence and over-rule the objection.

BY DR. REX:

1. Mr. President, I should like to point out the bibliography attached to this document, which will show you how extensive the literature on this subject is, all going to prove that seawater is not poisonous or harmful if used in reasonable, clinical dosages. Witness, Mr. Prosecution charged you with causing the experimental subject intense pains and misery; what do you have to say about that?

A. I believe that first of all it is a question to be put to the expert who will be heard on this particular matter. As for myself, I should like to say that this is a confusion on the part of the Prosecution between the conditions that prevailed in experiments and conditions which prevailed in actual emergency sea situations.

The experiments which Beiglböck made of the four and one half days in the experiment on himself I have seen. I have also spoken with two or three of Dr. Schaefer's technical assistants, who stayed without food and drink for four full days and still continued their laboratory duties. I know of course that hunger and thirst are unpleasant, in fact they can be very unpleasant, but I do not believe that it can be called torture or inhuman to carry out such experiments. Moreover, Professor Beiglböck informed the experimental subjects precisely how the experiments would be conducted and in the experiments themselves, in the planning of the experiments, we did everything possible to avoid any unnecessary undue harshness. For instance, the thirst group did not receive any solid food, because, as is known, that only aggravates the sense of thirst and produces unpleasant symptoms.

2. Witness, is not the regulation law of the German Reich to



these people and imperil danger to their health?

A. This loss of weight, which certainly occurred during the experiments, consists for the most part simply in a loss of water and in part consists in real loss of weight, but in no case did this loss of weight approach the limits of what can be tolerated. I know that for instance conscientious objectors in other countries carried out experiments in which they lost as much as 25% of their total weight.

"Time" Magazine of 10 December 1946 published an article on this and in medical literature there are cases of much longer fasts with much greater loss of weight. I believe that it can be seen that such a loss of weight within a limited period of time does not constitute any essential danger to the person's health.

Q. Mr. President, I should like to put in a document here. Document No. 45, Document book 3, page 102 to page 103. This is an excerpt from Dr. Schock and Dr. Meyer's book, entitled "Fast". I wish to read nothing from this document, but wish to refer briefly to what its main contents are. This book reports on a medical self experiment, the author of the book fasted for 26 days, losing 16.3 kilograms. This loss of 17% of his total body weight can be tolerated with no danger. There is no reduction in the person's ability to resist disease, but quite the contrary. The scientific attitude toward fasting over brief periods of time and limited periods of time is here made clear. I should like to put this in as Exhibit 32 and ask that it be admitted.

MR. KUNY: Your Honor, I object to this document. I don't think it has any probative value whatsoever.

THE PRESIDENT: Frankly, the substance of this document is to the effect that the facts will lose out. The Tribunal is of the opinion that it has no probative value whatsoever and the objection is sustained.

DR. PERK: I shall withdraw this document.

Witness, it will be necessary to deal with one point on which the Prosecution laid great importance, namely, the question whether

those experiments had any sense or purpose and you are charged with the fact that a chemist could have come to the same conclusions that the experiments led to by experimenting for one half hour with water with a filter in it.

MR. HAYDON: It seems to me this question is out of order. I object to it. This defendant is charged with having participated in experiments on human beings at Dachau concentration camp, not for participation in sea-water research. We do not contend that the research as to the potability of sea-water is unnecessary, it was certainly necessary, it was done in America and it was done here in Germany. I don't see any reason for continuing along these lines. It has been going on for five hours and I think the defense counsel can end up his case much sooner than he has.

DR. MEXX: Mr. President, I quite understand what the Prosecutor said and I am glad to hear that the Prosecutor said those experiments had a purpose to them. I distinctly remember he said they were useless and consequently I had to take that into consideration in my defense, but now that he makes this statement to the Tribunal, this is no longer necessary, I will accept that.

MR. ROYER: That last statement, I accept without prejudice, Your Honor.

THE PRESIDENT: Counsel may proceed.

DR. BARK: Mr. President, I shall try to come to the conclusion of this presentation rapidly. I now put in document Becker-Frayseng - just a moment -

Q Witness, did you talk about these medical experiments with any other doctors?

A I felt no reason not to and did so.

Q In other words, you did not feel that these experiments should be kept secret.

A At any rate I spoke with colleagues about this matter, whom I thought would be interested in it.

Q Now I put in, Mr. President, Document 48, page 206-9 in Document Book 3. This will be Becker-Frayseng Exhibit No. 32. This is a affidavit by Otto Lockart, who had an official reason for talking with the witness about these experiments. The affidavit is of the 15 January, 1947, and I quote from page 2:

"Then our problems were discussed - in my presence at least - no dangerous or even cruel experiments on prisoners were ever debated. I also regarded this as quite impossible in view of the extremely high minded and ethically immediate fundamental attitude of the scientific medical research workers I know."

And then on page 3, about two thirds:

"Becker-Frayseng was very upset that he had especially to set a difficult metabolism experiment in motion for such 'obvious nonsense' but he saw no other possibility of preventing the layman from wasting considerable quantities of raw material and subsequently distributing to the troops a preparation which was not completely harmless. He was all the more annoyed about the experiment, because on account of the strained situation on the various fronts, which, of course, affected the troops at home, it was very difficult to obtain a sufficiently large number of soldiers for this on and to be used exclusively for the metabolism experiment. These difficulties are eliminated if inmates were used as experimental

subjects. I had not the faintest idea that the experiments were carried out until permanent injuries to health occurred, and I did not get the impression that Becker Freyseng intended anything of this kind. My opinion was that only the period up to the first indication of the beginning of metabolic disturbance was to be determined strictly scientifically and under careful medical control. Consequently, an experiment for which a great many voluntary experimental subjects would have been found without further ado - also among the prisoners."

Now, witness, I come to the conclusion. If you critically appraised these experiments today what is your point of view toward them now?

A. Dr. Marx in these eight long months I have often asked myself this question and have meditated on it profoundly. I ask myself this question with particular earnestness because three of my co-defendants, namely, Schroeder, my former chief, and Schaeffer, and Seiglbauer would not be here in the dock today if I had succeeded in finding some other way of carrying out these experiments. And even today I am not in retrospect in any other possibility which could have been undertaken with any likelihood of success.

I know, however, that the subjects for these experiments were only volunteers; that the problem which the experiments were meant to solve was the oldest and the most urgent in the whole history of rescue from sea; that the results of solving it would not help simply soldiers at war, but beyond that all persons who found themselves ship-wrecked. I know that before the experiments began, the director of the experiments explained to the subjects what unpleasantness they could expect from the experiment. No experimental subject suffered the least harm to his health and consequently I am today still of the opinion that these sea water experiments were perfectly irreproachable; medical experiments that afforded in no way against the laws of ethics or morality. In the last two days I have given you the reasons for this conviction from the point of view of a doctor and as a scientist. As an officer of the former German Navy I consider it to be my natural claim



being able to bear the responsibility that falls to me on the basis  
of my official position at that time.

DR. JEX: Mr. President, this concludes my direct examination of  
D. Becker Freysong.

THE PRESIDENT: The Tribunal will now be in recess until one-  
thirty o'clock.

COURT I

AFTERNOON SESSION.

(The hearing reconvened at 1330 hours, 23 May 1947.)

THE MARSHAL: The Tribunal is again in session.

MR. HARDY: May it please the Tribunal, during the noon recess it was called to my attention by Mr. McHaney that the objection to Document NO 185 -- that is Prosecution Exhibit No. 134 -- had been raised prior to today and at that time the prosecution had submitted to the Tribunal, and to defense counsel, a memorandum to which I referred to this morning. However, if further work is being prepared which the prosecution may intend to do in addition to that memorandum, if the interpretation department has anything to add thereto, we will submit that at a later date. But at this time the prosecution wishes to state that they stand firmly upon the translation as it appears in the prosecution document book, No. 5.

THE PRESIDENT: Did I understand you to say that a written memorandum on the translation has already been filed?

MR. HARDY: It already has been filed with the Tribunal and defense counsel.

THE PRESIDENT: When this supplementary translation is prepared, a memorandum by the interpreters, see that it is attached to that and made one file, if you please.

MR. HARDY: Yes, sir.

THE PRESIDENT: Has any defense counsel any questions to propound to this witness?

HERMANN BECKER-FREYBENG-  
Resumed

CROSS EXAMINATION (By Defense)

BY DR. FLEMING (For Dr. Sauter, counsel for the Defendant Ruff):

COURT I

Q. Witness, in your direct examination you said that the mobile low pressure chambers had to be transported by rail in the second half of 1942 at the latest because there was no longer any diesel oil available for long trips. Did I understand you correctly?

A. If I said that, you understood me correctly. I can't remember my words at the moment.

Q. How can you still remember that that was the case from the second half of 1942 on?

A. I happened to remember a definite event, the transport of a low pressure chamber from Berlin to the area of the Gross-Glockner. A low pressure chamber was needed there for high-altitude research and a low pressure chamber was sent there. That was the same low pressure chamber which at the end of July or the beginning of August 1944 -- excuse me, 1942, was taken over by a Luftwaffe crew at the German Research Institute for Aviation, and this must have been the same chamber which according to Dr. Ruff had earlier been in Dachau. Since at that time I was in the Referat for Aviation Medicine and was responsible for these chambers, I, myself, was concerned with this transport and I know that we were unable to get any diesel oil for this long trip, and that we had to move the chamber by rail.

Q In some documents which have been submitted, that is in various letters from SS agencies and in a letter from Mrs. Nini Rascher, it is suggested that Rascher be assigned to the DVL branch office Dachau. Although no such office existed and no letter from any Luftwaffe agency took up this suggestion I should like you to tell me whether it was at all possible to assign soldiers and medical officers to the DVL? Did you yourself not arrange for medical officers working for a shorter or longer time at the Aviation Medicine Institute to work there as guests?

A I am at least well informed about the steps connected with this and I can first of all confirm that the German Research Institute for Aviation was not a military agency, that it certainly had no branch office in Dachau; and if medical officers or soldiers were to work at the Institute of Dr. Ruff, were to learn something there, it was handled as follows: These soldiers or officers were assigned to the nearest Luftwaffe unit by the personnel office and the DVL was asked to take these soldiers in as guests and let them work in the institute.

Q Do you know that the officers and soldiers who worked as guests in the DVL had for their identification a guest pass of the German Research Institute for Aviation and not the same pass that the members of the institute had?

A Yes, that is true. I can confirm that from my own knowledge because at the beginning of 1943 I myself set up a machine in Dr. Ruff's Institute which I could not set up elsewhere because of difficulties with the current. and, because I was at the Institute frequently during that time, I had such a guest pass myself and I know that other members of the Luftwaffe had the same kind of guest pass.

Q In the examination of Professor Woltz the question of adaptation to altitude played a certain role. I, therefore, have a few brief questions to you on this subject which you can answer as an expert on the basis of your experimental work or from your knowledge of literature. Does the effect of adaptation to altitude play an important role in experiments such as we heard of in Dachau for rescue from high altitude?



A First of all I should like to answer a preliminary question. I do not actually consider myself some sort of an expert on these questions. I worked for some time on adaptation to altitude and I may refer to numbers 24 and 25 of the list of my scientific publications offered as Becker-Praysang Exhibit 1. These are papers on altitude adaptation which I wrote during the years 1939 to 1942, I believe. I do not believe that the question of altitude adaptation was important in Dr. Ruff and Dr. Becker's experiments.

Q Can one compare altitude adaptation gained through cumulative and long stays in a low pressure chamber with the altitude adaptation required for example by mountain climbers. It is well known that climbers in the Himalayas have reached 8,000 meters by means of the most difficult physical exertion without artificial sources of oxygen.

A I have had no experience in the Himalayas. I performed my own experiments in Switzerland at the high Alpine Research Station on the Jungfraujoch at altitudes between 3,500 and 4,000 meters. Moreover, later, as a referent under the Chief of the Medical Services of the Luftwaffe I had to consider the possibility of altitude adaptation by repeated stays in a low pressure chamber. As proof of this I may refer to Document NO-934, Prosecution Exhibit A56. That is the list of the 97 research assignments. On page 3 of the copy, I have at my disposal on page 4, I beg your pardon, under III 5 three research assignments on this subject are listed. And since I know the results of this research well, I can answer this question. By repeated ascents in the low pressure chamber no actual altitude adaptation can be achieved. A slight increase in resistance to altitude is observed to be sure in the second, third, or fourth ascent with the low pressure chamber. The extent of this effect is so slight, however, that in effect it is of no importance, especially in the experiments which Drs. Ruff and Becker carried out at altitudes above 12,000 meters.

Q Then I can assume that the slight degree of adaptation which occurred in the course of a series of experiments such as was performed

at Dachau does not influence the results of the experiments to any important extent.

A Yes, this assumption is correct.

Q Is it true that as far as possible after a long series of experiments with the low pressure chamber the experimental subjects are left out for a short time to do away with even the slightest adaptation which may exist?

A Yes, that is true, but I must point out the following: with the aviation medicine experts who constantly performed experiments on themselves in their institute, we are concerned with repeated ascents over a period of many years. That is of course, something quite different than in series of experiments limited to 2, 3 or 4 months. And, an attempt will of course be made after conclusion of a series of experiments lasting several months to insert a certain pause.

Q In Dachau about 20 experiments were carried out in the course of approximately three months. Is it your opinion as well as that of the medical expert of the Prosecution who has repeatedly told the defendant Dr. Ruff and Dr. Sauter that in the scientific execution of the experiments for rescue from high altitudes there was nothing objectionable?

A After carefully reading the detailed report made available by the Prosecution I, too, consider it an unobjectionable scientific report aside from the fact that through years of acquaintanceship I observed nothing but perfectly legitimate scientific work done by Drs. Rombert and Ruff.

Q If there was nothing to be objected to in the scientific execution of this work, then there could not have been any over-burdening of the experimental subjects either, since otherwise this would have influenced the results. Is that also your opinion?

A Yes, that is my opinion and I should like to add — you said that there were about 20 experiments carried out in three months. That could

not be an overburdening under any circumstances, I myself had those whom I subjected myself to more than 20 similar experiments in the course of 3 months period and I know that Dr. Ruff had periods when he performed considerably more experiments on himself in a similar period.

Mr. President, I now have some questions for Helte on behalf of the defendant Handloser.

While you were working in the Luftwaffe Medical Inspectorate, did you ever see an order or instructions from the Chief of the Wehrmacht Medical Service referring to research of the Luftwaffe?

A. No, I never saw such an order from Generaloberstabsarzt Handloser.

Q. While you were working there did you ever see a report to the Chief of the Medical Service about the execution of any research carried out or ordered by the Luftwaffe Medical Service, or did you ever draw up such a report?

A. I cannot remember any such report.

Q. What was the effect of the establishment of the Office for Science and Research, from the end of 1943 on, on your reports in research questions?

A. I can answer this question only from 15 May 1944, on, when I myself became Referent for Aviation Medicine. The effect was that we made one more carbon copy of our research assignments, and this copy was sent to the office of the Chief of the Wehrmacht Medical Service.

Q. Did these letters about research assignments indicate how the research was to be carried out?

A. No, that could hardly be seen from them. I may refer to what I have stated in considerable detail here about research assignments.

Q. Do you know of a case when Professor Handloser visited or inspected the Research Institute of the Luftwaffe?

A. No, I do not know of any such case.

Q. Do you believe, on the basis of your knowledge of the organization of the Wehrmacht Medical Service, that Professor Handloser could have prohibited any research which the Luftwaffe considered necessary?

A. First of all, I don't know of any case when he did so or attempted to do so. I can't imagine his doing it or being able to do it.

Q. Was the medical research system of the Luftwaffe under the command of the Chief of the Wehrmacht Medical Service?



A. I am not aware of anything that might indicate such a subordination.

Q. Do you have your affidavit, NO-448, before you?

A. Yes, I have it.

Q. How do you explain your statement in this affidavit which led to wrong conclusions?

A. I presume you mean this sentence:

"Hantloser, as Inspector of the Wehrmacht Medical Service, must have been acquainted with the research assignments carried out by the Army, Navy, and Luftwaffe."

Q. Yes, that's the sentence I mean.

A. This refers only to what I said before, that the office of Generaloberstabsarzt Hantloser received a carbon copy of our research assignments.

Q. Did the Chief of the Wehrmacht Medical Service have official knowledge of the sea-water experiments?

A. No.

Q. Do you know the Military Medical Academy?

A. Yes.

Q. Do you know that there were institutes which carried out research; for example, birth research and blood serum research under Lang?

A. I must tell you how I knew of the Medical Academy of the Army. The Division Medicine Research Institute was in a building which was part of the Military Medical Academy, and I, of course, knew Professor Birth and Professor Lang. I know that Professor Lang produced blood serum, and I know that Professor Birth was working on questions of chemical warfare. I am not informed of any details of the work of either of these men.

Q. Do you know that experiments were performed there on human beings?

A. Yes, because I often met the experts of the Academy and partici-

gated in all kinds of experiments.

Q The experiments were performed on cadets?

A Yes, I know of one big experiment on Parvatin, for example, when the cadets could not sleep for several days, and then I know of chemical warfare agent experiments because, in the institute, I saw many cadets who had bandages on their forearms, and I was told that these were chemical warfare agent tests.

Q Do you know the Mountain Medical School of the OKH in St. Johann?

A Yes, I know that institute. The Army Mountain Medical School is St. Johann in the Tyrol.

Q Do you know that experiments were performed there on volunteer soldiers?

A Yes, I know that very well. This knowledge was the reason for the suggestion which I mentioned yesterday, that a similar training center such as the army had in St. Johann should be set up for the Luftwaffe in the Training Section in Jüterbog.

Q What you said yesterday might have been interpreted to mean that the army did not perform any experiments at all on members of the army. That is not right?

A That I said on the subject referred only to what I heard here in this court room; I believed that either Professor Handloser or someone else had spoken of a basic order from Keitel that no experiments could be performed on soldiers of the army but, of course, I know that in both the medical offices in St. Johann in the Tyrol and in the Medical Academy such experiments were performed on volunteers.

Q In the list of participants of the Nuremberg meeting - NO-401 - under 41, there is Oberarzt Dr. Koenig of the laboratory train of the OK. Is it true that Dr. Koenig was not present?

A Yes, that is true. That is obvious in the original document. Where the lecture of Dr. Koenig is printed, there is a footnote at the bottom of the page indicating that Dr. Koenig was unable to attend the

meeting personally for reasons connected with the war, and that Koenig's lecture was read by Dr. Bensinger, at whose institute Koenig had worked. The name of Koenig is listed among the participants only because his lecture is included.

Q Thank you. I have no further questions.

BY DR. FRIBILL: (Defense Counsel for the Defendant Roetack and also representing Dr. Servatius, Defense Counsel for the defendant Karl Brandt);

Q Dr. Becker-Freysang, did you, from your former work, know the duties of the Office for Science and Research well?

A I believe I have already made a statement to the effect that I did not have any knowledge of my own about the specific duties and position of the office for Science and Research.

Q Then I may sum up your statements to the effect that when you said that Karl Brandt was perhaps the highest medical authority in science and research you did not say this from your own knowledge, but that it was a conclusion which was suggested to you?

A The word "perhaps" expresses that I didn't only the possibility.

Q Then the emphasis is on the "perhaps"?

A Yes.

Q During your work, at that time, did you ever receive any instructions from Professor Roetack or any suggestions to carry out any experiments?

A No.

Q Then, Roetack did not suggest the sea-water experiments and had no connection with them?

A No.

Q Then, in the field of these experiments, there is no connection which you remember to say with the Office for Science and Research?

A I have said that the sea-water experiments were not worked out on the basis of a research assignment given to a civilian research worker, but were carried out by ourselves on a purely military basis.

He did not have to give any report to the Office for Science and Research, and we did not do so.

Q Thank you. I have no further questions.

BY DR. FELCKMAN (Defense Counsel for the defendant Schaefer):

Q Dr. Becker-Freysdag, you have made detailed statements about Holzlochner's lecture at the Wurnberg meeting and about Rascher's comments. Did you talk to the defendant Schaefer about Holzlochner's experiments?

A I do not recall any such conversation.

Q You have discussed the debate between you and the men of the Technical Office about the usefulness of Birkatit. What did Schaefer emphasize during this debate to show how dangerous Birkatit was?

A First of all, I agreed in principle with Mr. Schaefer that the main danger of Birkatit was that it conceals the unpleasant salty bitter taste of sea-water and leads the persons in distress at sea to drink it, but by the failure to change the salt content, the effects are the same as that of untreated water, and that was what Schaefer emphasized.

Q And if we go into the physiological considerations, he probably added that that would increase the thirst and the desire to drink, and more and more harmful sea-water would be drunk?

A Yes, I believe I said the same thing yesterday afternoon.



Q. In your examination as far you have said that Christensen in the first discussions prohibited interference in his job; you also said something about a quarrel with a Luftwaffe Officer named Jeworck at the meeting of 19 May. Now, I ask you whether you remember another quarrel which Schaefer told you about?

A. I believe it was between the two meetings of the 20th and the 25th that Schaefer told me that Mr. Schickler, the Referent of Oberstingensieur Christensen, said that he could expect to be prosecuted for sabotage if he continued to oppose Berkatit.

Q. Is it true that on 19 May at this meeting Christensen gave orders about what the Luftwaffe men were to do and say at the meeting on the 20th?

A. I know what you mean. Christensen said, asked, or demanded that the differences within the Luftwaffe should be put in the background on the next day and these differences should not be expressed before the Navy men.

Q. And did you or Schaefer at the meeting on the 20th act on this request of Christensen, or were there quarrels in spite of it?

A. I expressed my point of view on the 20th, just as I had on the 19th. There were, of course, debates. The consequence was that Berkatit was not introduced as the Technical Office had ordered, but that the decision was made to depend on new experiments.

Q. Can one say that these quarrels were violent?

A. At least the ones on the 19th were very violent, yes.

Q. But I am asking about the ones on the 20th?

A. They were perfectly clear, anyhow.

Q. Now, the discussion on 25th May you said was carried out during an air raid?

A. Yes.

Q. You said that it was continued in the air-raid shelter?

A. Yes, an air-raid shelter of the Medical Academy to which the research institute belonged and in the room of which the discussion was taking place.

Q. You also said that part of the participants were separated because of circumstance?

A. Yes, I remember that very clearly.

Q. Is it possible, or do you know, whether the Defendant Schaefer remained with the group which primarily continued the discussion or whether he was with one of the groups which was separated from the main participants in the discussion?

A. He was certainly not in the same group as I was, which included my department chief and Professor Eppinger and Professor Hubner.

Q. You said that in the discussions on 19th 20th May no condition for the experiments were settled?

A. Yes, I said that.

Q. Then it is no doubt correct that no experiment or series of experiments to test Mofatit was decided upon here?

A. Yes, that is correct, and I may add that that was unnecessary, because no one ever doubted the effectiveness of Mofatit, not even the representatives of the Technical Office.

Q. If later a series of experiments with Mofatit was introduced without Schaefer's knowledge, what was the purpose of this series of experiments?

A. I explained that this morning. For reasons of experimenting a so-called control group had to be conducted which was given normal drinking water. This could have been obtained from any water tap, but since this experiment was being carried out Mofatit was included and the normal water was produced by removing the salt from sea water with Mofatit.

Q. Can you recall whether the inclusion of this Mofatit series was decided upon or at least discussed on 25 May?

A. There was no great amount of discussion about it, certainly, because it was not a question of testing Mofatit.

Q. On 25 May you were with Schaefer at least part of the time?

A. On 25 May, yes.

Q. How long was it until you saw him again after that?

A. A few weeks later, perhaps five weeks.

Q. At least you didn't see him daily or at brief intervals?

A. No, I was normally 50 kilometers south of Berlin; Schaefer had his laboratory in Teltow, I believe, in a different direction from Berlin, and anyone who knows conditions in Berlin in the summer of 1944 knows how difficult it was to get around.

Q. If you say you didn't see him, do you mean you didn't talk to him either by telephone, for instance?

A. I don't recall any conversation after the 25th.

Q. When you saw him again after about a month, can you remember that he asked you what had been done in this matter?

A. I saw Schaefer for the first time after the 25th when Himmler's decision had not yet been received. I remember that.

Q. And what did you tell him in answer to his question?

A. I told him nothing had been decided yet.

Q. Did you say you had heard nothing more about the matter, it seems to be dwindling away to nothing?

A. If Schaefer remembers those words it is possible. I don't remember that at the moment.

Q. Then when did you see or talk to Schaefer again after this conversation?

A. As far as I can recall, it was in the flak tower at the Zoo, which I mentioned this morning.

Q. And when was that?

A. That was the middle or end of September 1944, after the experiments were completed.

Q. Dr. Becker-Freysong, you know the documents which the Prosecution has submitted in Document Book 5 against you and Schaefer; can you tell me which documents Schaefer would have obtained knowledge of through official channels or whether he would have seen any of those documents normally, for instance the minutes signed by Christensen

and the letter which Schroeder or you sent to Himmler; you know how business was conducted, and you know Schaefer's position.

A. I cannot imagine Schaefer having known of any of these documents.

DR. FROCKENAU: Thank you.

DR. FRITZ: Fritz, for Rose.

BY DR. FRITZ: In Document Book 3, Witness, of the Prosecution, there is an affidavit of yours, NO 448. In paragraph 5, which is on page 7 of the Document Book, you say among other things: "Professor Rose was perhaps the most significant factor in the hygienic service of the Luftwaffe," are those your own words, or was that formulation put into your mouth by the interrogator?

A. In my direct examination I have already said that the affidavit was put to me in the English language for signature; so far as I can remember today I think that the only word in that sentence that originated from me is the word "perhaps".

Q. However, Witness, you signed this version; would you please express this more precisely to the Tribunal; did you wish that to mean that Professor Rose had the most to say in this field, in other words, that he had the greatest power to issue orders, or just what did you mean to say?

A. No, I did not intend it to be so interpreted, because there is nothing in this sentence that indicates anything of this sort. I thought I could have signed this sentence having introduced the word "perhaps" into it, because, purely scientifically speaking, I consider him a highly qualified bacteriologist and hygienist.

Q. Then at least you did not want to say in this sentence that he had executive powers, or that proposals if he made them were binding for the persons without executive power?

A. First of all there is nothing to that effect in this sentence, and actually as a member of the office of the Chief of the Medical Inspectorate I know very well that the suggestions made by the



consultant were in no way binding on our departmental chief, or on us.

Q. Now, another matter; you testified that the research assignments from the autumn of 1944 on were not worked on in your Referat, but in the Department of Science and Research and the Military Medical Academy?

A. Perhaps I may correct you right away. They were taken care of by the training or lecture group of that same academy.

Q. Well, after this organization changed, who worked on these assignments? This is of particular interest in Professor Rose's case, because he was one of the consulting specialists; do you know whether he concerned himself with these research assignments.

A. Let me point out to you Dr. Hans Erich Halbach's affidavit, which was put in yesterday as a Becker-Freyseng exhibit, the number of which I do not remember, in which he says that he took over the future work of these assignments in the lecture group at the aforementioned academy.

Q. No further questions.

BY DR. STEINBAUER: (Counsel for Dr. Beiglboeck)

Q. My dear Dr. Becker-Freyseng, from your testimony I have observed that you have studied the Prosecution documents very carefully; does anything occur to you when you consider Dr. Beiglboeck's professional title?

A. His professional title?

Q. Yes, that is what I mean. He is not called a University Professor or an Oberarzt, but what was he called?

A. You mean his title "consulting physician"?

Q. Yes, that is what I mean; was he one?

A. No, he was not.

Q. Did you ever speak at a conference or meeting of consulting physicians?

A. I only attended one such conference, the one in May of 1944 at Hohenlychen.

Q. Do you know whether Dr. Beiglboeck ever attended such a conference?

A. I never heard anything to that effect, at any rate I did not see him in 1944.

Q. What was Dr. Beiglboeck's rank?

A. Rank?

Q. Rank?

A. At the beginning of June, when we first saw him, he was an Oberarzt and I believe later he became a Stabsarzt.

Q. Now, let us turn to the experiments; did Dr. Beiglboeck attend any of the conferences that are mentioned in document book 5?

A. No.

Q. Did he participate in the meeting of the 25th of May in particular?

A. No.

Q. Now, another question; you said that the experiments were to be supervised by a specialist, namely Dr. Eppinger; do you know whether Dr. Eppinger really carried out this supervision, whether he was in Dachau or not?

A. I believe I can remember for certain that Dr. Beiglboeck, after he returned from the experiments when they were over at Treviso, said that Dr. Eppinger had been in Dachau.

Q. Now we come to the experiments themselves; you received the assignment to have these experiments carried out?

A. Yes.

Q. Dr. Beiglboeck was at that time in Italy; what did you do to get the experiments started; did you telephone to Italy to get him; did you write to him or telegraph to him; what did you do?

A. If I am to explain that to you in detail, I must say the following: I dictated a short memorandum through our Personnel Officer in the office —

Q. No, I don't want to slow up the proceedings; how was Beiglboeck informed?

A. He received a written communication from the Office of the Chief of the Medical Inspectorate, stating that he should report to the Office as soon as possible.

Q. The purpose for which he had to report was not told to him; is that right?

A. No, it was not.

Q. How he reported to you. You said this morning that neither

officially nor unofficially had you previously known Dr. Beiglboeck;  
thus Beiglboeck did not know what your political opinions were;  
you could have been an informer, he had to be careful ; is that not so?

A. Of course.

Q. Nevertheless, when you explained these experiments to him, he  
said, "I don't want to go to Dachau to carry out experiments there?"

A. Yes, I said that this morning in my direct examination.

Q. Then you said this morning that he proposed that the experiments  
should not be carried out in Dachau but elsewhere?

A. Yes, I did.

Q. And you refused that?

A. You are exaggerating my authority, Dr. Steinhauser.

Q. No, I am not doing that. I just wanted to ascertain that for  
another reason.

A. For personal reasons he wanted the location to be changed. I  
told Beiglboeck that I would gladly agree, but I was sure he would not  
be successful, and I mentioned such and such a reason.

Q. Dr. Becker-Freyse, don't misunderstand me. I don't want to  
incriminate you in any way, but want to bring out the truth here.  
I simply say that for one reason or another you refused the proposal  
that Beiglboeck made that the experiments be transferred elsewhere?

A. Yes, that is so.

Q. Now let me ask you a supplemental question to this; did he not  
make another proposal to you?

A. Yes, he made another proposal, which unfortunately came to  
nothing. He told me that before he had become the director of the  
Internal Department of the Luftwaffe hospital at Travelsreid had had been  
the same in Brunswick, and since the hospital in Brunswick had very  
good laboratories, it should be possible to carry out the experiments  
there.

Q. Very good. Now, let me remind you of something else; did not Dr.  
Beiglboeck make even another proposal; did he not say, "Referent, I



have still another suggestion to make?" Now you just reflect on this—  
—maybe I can help you a little. Did he not say to you, "I am expanding the hospital at Treviso and I have an assistant there who could very well carry out the sea water experiments there?" Wasn't that so?

A. Yes, he suggested that his representative in Treviso should carry out the experiments there also.

Q. And did you not say, Dr. Becker-Freysong, "Unfortunately, Dr. Beiglboeck, that won't work because Himmler is in the way?"

A. I told him that the proposal did not originate with us; it had already been decided that Beiglboeck should be used and this had already been reported to Himmler.

Q. Now, in naming Himmler you meant to say that the proposal was impossible.

A. I wanted to say that from a military point of view the whole situation was settled and there was no purpose in trying to make a lot of changes because it was too late.

Q. Now, we won't talk about the experiments themselves as we have already gone into them at great length. Now, Beiglboeck and Becker-Freysong meet; did he tell you anything about what things were like in the concentration camp; what contacts he had there; what the SS was like, etc.?

A. He told me two things that rather surprised me. First, I had told Beiglboeck that he would probably find a very well equipped laboratory there. I did not know much about it in detail, but it was the general belief that the SS equipment was good. When Beiglboeck returned, he told me that all he had had was an empty room there and all the equipment, retorts, and what not that he needed for the experiment, he had to provide for himself.

The second thing that surprised me concerned his relationship to his colleagues who were present and who were SS officers. This relationship was so poor that Beiglboeck was obliged to eat not in the SS officer's mess hall, but outside the camp somewhere in the town of Dachau.

Q. Now, after the experiments were concluded, didn't you tell Beiglboeck that you would help him to get a job as a consultant and he refused to accept that?

A. Dr. Wilhelm Meister, one of the Slovakian resistance movement men, was murdered and thus his position was free. I asked Beiglboeck whether he would like me to speak to my department chief and ask for the position for him, since it was open. Beiglboeck refused that because he preferred to remain as the internal director in his hospital.

Q. No further question.

THE PRESIDENT: If there are no further questions by the defense counsel, the Prosecution may cross-examine the witness.

CROSS EXAMINATION

BY MR. HARRIS:

Q. May it please the Tribunal, Dr. Becker Freysong in the course of your direct examination you stated in regard to your position in so far as the experiments on human beings are concerned that you held three points and set forth three points which must be fulfilled prior to experimentation on human beings. As I understand it, point No. 1 was that the experiment must be necessary, that is, there is no other solution; point No. 2, the experiment must also have been well prepared and all research along these lines through animal experimentation has been exhausted, and you had perhaps model experiments and experiments on the physician himself; and, No. 3, you stated medical actions. Would you kindly explain to me just what you meant by point No. 3?

A. I think my point No. 3 was that the experiments should be carried out in strict accordance with regular medical procedures.

Q. Does the element of consent or the voluntary nature of the subject come into play?

A. It does come into play and let me point out to you that when my counsel asked me this question he explicitly said that in my answer I should leave the question of the voluntary consent of experimental subjects altogether out of my answer, and, therefore, I did not say anything at that time regarding the voluntary nature of the subjects. Later, however, I did go into the question of their consent and said that I was convinced that prisoners could also be used as voluntary subjects.

Q. Well then if I understand you correctly the ethical conditions under which you would act would be: 1, that the experiment must be necessary, that there is no other solution; No. 2, that it was well prepared through animal experimentation, model experiments, and self-experiments; and No. 3, that it was under the so-called medical action rule; and No. 4, the subjects must be volunteers?

A. These are the conditions under which I consider the experimentation justified.

Q. Who do you feel may volunteer for experiments?

A. Anyone in full possession of his senses.

Q. Well, do you think somewhat along the same lines as Professor Bess, that perhaps only medical students or physicians should volunteer for experimentation?

A. No, it seems to me that any mentally normal person who can be told what the nature of the experiment is.

Q. Well then by that token it must be necessary for the physician to warn the experimental subject about the hazards of the experiments, is that true?

A. I should like to say that it should at least be explained to him.

Q. Then point No. 6 under Becker Freysong No. 1 is that the physician should advise the experimental subjects?

A. Let me point out that I had already included this condition under point 3 of my previous principles when answering questions put me by Judge Sebring.

Q. Well now that we have your ethical principles clearly in mind, do you feel that every experiment which you instigated in the past followed those principles, that every experiment instigated by you in the past followed those principles?

A. Since I instigated only one, namely, the sea water experiment, I am convinced that what was done by me corresponds to the principles I just set forth.

Q. Do you feel that any experimental plan that did not comply with the ethical principles would be criminal?

A. You asked whether I believed any other experimental plan that did not meet the principle I set forth would be criminal -- is that what you asked?

A. That is what I asked, yes.

A. That I can't say because I knew nothing of my own knowledge of the plans for the other experiments.

Q. Well, do you think it would be unethical?



Q. Any experiment which did not meet the regulations as set forth by me here on this witness stand?

A. I can't answer that question either because to do so I should have to know all of the conditions and I don't know them.

Q. Dr. Becker Freysong, as I understand it, in 1941 you assumed this position as Assistant Referent in the Referat for Aviation Medicine in the Medical Department of the Chief of the Medical Services of the Luftwaffe, is that correct?

A. In August 1941 I became an Assistant Referent in the Referat for Aviation Medicine in the Office of the Chief of the Medical Inspectorate, yes.

Q. How many Assistant Referents were there?

A. I said yesterday that only a few of the Referats had Assistant Referents. I believe that there were perhaps two other Referats -- in other Referats, not in the Referat for Aviation Medicine -- which had assistant Referents.

Q. That was the total number of personnel in the Referat for Aviation Medicine?

A. I think I told you that yesterday in some detail. Besides Professor Anthony and myself there was a clerk and sometimes there was a soldier to help around the office, and I believe during Dr. Anthony's time there was a second female helper instead of a soldier.

Q. Then there were never more than four people in the Referat for Aviation Medicine.

A. That is right.

Q. And only two had authority, that is the Referent and the Assistant Referent.

A. That is right.

Q. There was the office of the Referat for Aviation Medicine located?

A. Until August 1943 it was in a building of the Tempelhof Air-  
ground and from 1943 on it was in the barracks complex of Seelow near  
Zossen, about 50 kilometers from Berlin.

Q. There was the Office of the Chief of the Medical Inspectorate of the Luftwaffe, namely, Hippke, and later Schroeder?

A. That was until 1943 in Berlin in the same building in the Tempelhof Airbase, and from 1943 on it was also in the barracks camp Seelow, near Zossen.

Q. Physically how far were the offices of the Referent for Aviation Medicine from the Office of the Chief of the Medical Inspectorate of the Luftwaffe?

A. In Berlin, Hippke's office was on the second floor and our office was on the third floor in the same part of the same building, and in the barracks camp at Seelow the barracks in which the various offices were were perhaps fifty to eighty meters apart.

Q. Tell me in May 1944 you became the Referent in the Referat for Aviation Medicine, is that correct?

A. Yes.

Q. So during the time at issue in this trial we had two Referents - from August 1941 on Anthony was the Referent in the Referat for Aviation Medicine up until May 1944, and after that time you became Referent?

A. Yes, the change took place about the 15 May 1944.

Q. Were the duties of the Referent in the Referat for Aviation Medicine limited to merely the sphere of aviation medicine?

A. I believe I already described that at great length. My real duties were limited to the field of aviation medicine.

Q. Did you have any other fields in which you were active?

A. Yesterday I said that from July on of 1944, that is, I was also medical Referent with the Research Leadership of the Air Ministry, and until the beginning of 1944 I carried on research of my own in the Medical Research Institute. I cannot recall any other duties at the moment.

Q Well now I hint, as a matter of fact, all assignments pass through your office when you were Referat to Schroeder — all research assignments?

A I described that at great length. I said that the Referat for Aviation Medicine, aside from its 95% aviation assignments, also did purely formal work for the rest of the research assignments, even if not aviation medical assignments or in other fields.

Q Well, then could it be construed that the office you held was more or less a clearing house for all research assignments?

A Could you perhaps explain what you mean by the expression clearing house?

Q Now most of these assignments had to have allocations, various materials, had to receive subsidies, money, have regulations to be abided by. Now, was your office the office wherein these matters were taken care of for all research assignments of the Luftwaffe?

A I had thought that I had discussed this so exhaustively already that I would not have to go into it again. However, ———

Q Dr. Becker-Freyson, before you continue I want to tell you that my reason for asking you this is that perhaps in your direct examination you were too elaborate, so elaborate that it became very confusing to me and I am trying to straighten myself out now. So, if you will be brief and answer my questions briefly perhaps I can understand you more clearly.

A I shall be only too happy to try to.

A In our office there were always roughly one hundred current assignments at one time, 95 of them concerned the field of aviation medicine. These assignments were taken care of by my Referat formally, so far as their contents were concerned. I took care of the formal and organizational aspects of the other 5 assignments of this hundred. You mentioned funds necessary. Perhaps I should tell you that —

Q I will get to that later, Doctor, when I get into that point. Now, in brief, all research assignments made by the Luftwaffe came

through the office of Becker-Freyson, irrespective of whether or not they dealt with aviation medicine?

A Yes, after I became Referent in 1944 they all went through my Referat, that is right.

Q Thank you, Doctor. Now, during the course of Anthony's term as Referent, if I understand you correctly, he did not have the authority to issue orders; is that correct?

A That is so. No Referent had the right to issue orders.

Q Well now, did you have the authority to issue orders when you became Referent?

A No more than any other Referent. None of the Referents had the authority to issue orders.

Q Well, now, suppose you were interested in some particular research and in order to initiate a program you must have orders so that you could have Brown or any one of your consultants at various universities who worked on a particular problem commence their work, who would issue that order?

A Research assignments were issued only by the Chief of the Medical Inspectorate himself personally and signed by him, before the first of January 1944 by Hippke, after that by Professor Schroeder.

Q Then, in brief again, a Referent had no authority whatsoever to issue orders, is that correct?

A That's right.

Q Now, you have stated here in direct examination that during Anthony's term as Referent in the Referat for Aviation Medicine you were merely an assistant Referent, that you were not a Deputy; is that correct?

A That is correct.

Q Then you had no authority to issue instructions to the employees in Anthony's absence, is that correct?

A Why I ask what employees you are talking about?

Q Well, the other two employees in your office?



A Well, of course, I could dictate a letter to them or something like that.

Q Suppose Anthony went on an extended trip, how could you carry on the business of the office, would you lock the door of the office then and take a vacation?

A No, above me was my departmental chief who was competent for my department and who gave me my assignments. I had my own room to which the departmental chief sent me the documents I was to work on. But Anthony's room was really locked up, that is so.

Q Was the departmental chief an expert in the field of aviation medicine?

A If two departmental chiefs could be considered specialists in the field of aviation medicine, because the first was Generalarzt Dr. Thinius, who had previously been the directing doctor of the German Aviation Sport Association, and consequently he knew about aviation. And the second one was Oberstarzt Dr. Wers, who was himself a good pilot and knew a good deal more about flying than I did, for example.

Q Assume for the moment that Anthony was on a trip and an important problem came up in the field of Aviation Medicine wherein it was necessary for orders to be issued. To whom would you turn?

A It is very easy to answer that question. Such a problem would have come to the office in writing in the normal course of events, at least let us assume so. Then this report or this inquiry, before it reached the Reforst, would have been seen by the department chief. Then the department chief would either have reached a decision immediately himself or he would have asked me to find certain documents for him on the basis of which he could make his decision. Or, if this was a field which the department chief knew was within the special field of Anthony's work, then the department chief — and this often happened when Anthony was on trips would have ordered that efforts be made to reach Anthony by telephone and to put the problem to him. Those are the main possibilities.

Q Being hypothetical again for a moment, assume that Anthony decided that it was necessary to initiate research in the field of high altitude, or rescue from high altitude and he wanted to commission Benzinger in his institute at Roshlin, or Ruff in his institute at Mersdorf, or Walz in his institute at Munich, to conduct research along those lines, who would initiate the research order? Anthony?

A Under no circumstances.

Q Now, Doctor, do you have Document Book No. 12 in front of you? That's Document No. WD-306 in the typhus experiments Document Book, on page -

A I merely have a few documents from that Document Book.

Q This is page 74 of the English, Your Honor. It's Document WD-306 that you discussed yesterday, Dr. Becker-Frayson, wherein you pointed to the last sentence in the letter. This is a letter from Rose to Hagen.

A I have that document here.

Q You pointed to the last sentence in this letter, which states as follows: "It will take some time until 2-F produces its new research order, as Anthony is on a duty trip for several weeks." And you indicated to the Tribunal that this sentence substantiated your position that you were unable to act in Anthony's absence and that you were not by this token his deputy. Now, isn't it apparent from this sentence that Anthony had the authority to issue a research order?

A No, that is not apparent at all.

Q It certainly is, Doctor. Read it.

A The sentence reads somewhat differently in the original than from what I just heard over the earphones. The translation says: "Its new research assignments". However, in the copy I have here it says "Until 2-F can produce the new research order."

MR. HARDY: I won't quibble with you about the translation, because all by yesterday the translators translated the word research order. Whether it be research assignment or research order, that is immaterial.

The assignment or order initiated from Anthony, according to Rose. Now I want you to bear in mind that if you attempt to state Rose didn't know the inner workings of your office, then you must also bear in mind that refutes your argument that you were not a deputy to Anthony, if Rose didn't know what was going on in your office. Isn't it true here from this sentence, from reading this sentence, that Anthony had the authority to issue a research assignment or order?

A That is not to be seen in this sentence at all. Now, let me say regarding the translation, that it is not a question of the translation "research order" or "research assignment", but what you read me before was read to me that "it would be quite a while before 2-F gave out its research assignment", but here it says "until 2-F produces the new research order".

Q That's right. Just what I said, "produces its new research order". I'll ask the interpreters kindly to turn to Document Book #12, the German edition thereof, and read the last sentence as it is in the document book which will be an exact quotation of what I have just read in the English.

Interpreter reads sentence in German.

A That's just what I read, and it doesn't correspond exactly to what I heard from the interpreters before.

Q Now, this states that "it will take 2-F some time to produce its new research order", 2-F being the Referat for Aviation Medicine, and the chief thereof was one Anthony. Now, how could Anthony produce a research order? He didn't have that authority.

A There is nothing here to the effect that Anthony will issue this research order, but only that it will take some time before the order is issued, because so long as Anthony is away the order can't be worked on and, consequently, cannot be put to the departmental chief, or the Chief of the Medical Inspectorate, for signature.

Q Then it is true that all research orders initiate from the Referent's office and that the signature of Schroeder was merely a formality, is that true? Or did Schroeder know the contents of each and every research order?

A It had to be shown to him by the department chief, and I can say again, in this connection, this particular research assignment surely did not initiate from the Referat for Aviation Medicine, but certainly from the Referat for Hygiene, which was interested in such vaccine matters. The assignment went through the Referat for Aviation Medicine that is, through Anthony's office only so that the formal end



organizational aspects could of it and prepare it for the signature of the department chief or the chief of the Medical Inspectorate. Both the Referat for Hygiene and the Referat for Aviation Medicine was subordinate to the same department chief, so that if Anthony, or later I, submitted a research assignment to him that really concerned the Hygiene Referat then, of course, the Hygiene Referat had already oriented him about the matter.

Q Then that is most interesting to me, Doctor. Then I can assume that every research assignment issued in behalf of the Luftwaffe was known to Schroeder. Every detail of it. Because he issued it. It was his order. Nobody else's.

A That is true only after 1 January 1944.

Q That is when he became chief. That is correct. After he became Chief of the Medical Services of the Luftwaffe, Schroeder was personally acquainted with each and every research order that emanated from the Luftwaffe.

A After he signed new research assignments, he knew that such an assignment existed, of course, but he could not possibly have known the details of such an assignment because when such an assignment was given that was only the beginning of the research, at which time, as we know, the details are not even known. Otherwise there would be no need to issue a research assignment.

Q Who knew the details?

A Only the scientist himself who worked on the research assignment, and he only knew the details after he had finished the research.

Q Whenever it became necessary to issue a research order, did Professor Schroeder sit down by himself and figure out what order should be issued?

A Certainly not.

Q He took the advice of the various Referats?

A The various Referats or consultants or the commissioned specialists or whoever it might be. That differed from case to case.

Q Then, in essence, the particular research order would have been drawn up by the Referent for Schroeder's signature? Is that what you're trying to convey to me?

A The research assignment, for example, in the field of aviation medicine in 1944 was drawn up, dictated by me after the scientist in question had generally made an application and had told me exactly why he wanted to receive a research assignment. This draft of a research assignment I then submitted to my department chief. He either made changes in it or approved it as it was. Under some circumstances, he turned it down immediately. That sometimes happened. Then we had it rewritten and it was put to the chief of staff, and if he was in agreement with it then it went to the Chief of the Medical Inspectorate for the final decision.

Q Perhaps I gained an incorrect impression from the testimony of Professor Schroeder here before this Tribunal, Dr. Becker-Freyseng. I have the impression from the testimony of Professor Schroeder that you more or less dealt with Professor Schroeder directly without going through any intermediaries. Isn't that the impression he created here?

A I don't believe so. I believe that impression arose because we are sitting next to each other in the dock here without the representatives of the offices in between. Without first speaking to the department chief and the chief of staff I could not go to Schroeder personally or directly.

Q Didn't Schroeder say that whenever any of these research assignment problems came up he always turned that over to Becker-Freyseng, on page 3618 of the transcript?

A It is quite possible that he said that, but I think if you had asked him more exactly just how that was done he would certainly have said that if he, for example, received a report that concerned an aviation medical research assignment, the report went first to the chief of staff, who sent it to the department chief, who sent it me.

Q Well now, I think we have fairly well cleared up the scope of your authority as a Referent. Now, I'd like to know, Dr. Becker-Freyseng, what authority you had over the various institutes of the Luftwaffe, such as the Institute at Alerhof, the Institute at Munich, and various other institutes?

A None at all.

Q But Professor Woltz told me, here on the witness stand, that his subordination was to Luftgau VII - that is, the regional organization of the Luftwaffe in Munich - for disciplinary measures, and to the Office of Anthony for scientific reasons. Don't you recall that? It seems somewhat strange to me that the chief of one of your institutes felt for a number of years that his superior was Anthony, and later Becker-Freyseng, for scientific purposes, and for disciplinary purposes, the Luftgau.

A Let me remind you that Dr. Woltz said in answer to Dr. Tipp's question that this testimony referred to the fact that scientifically, of course, he was subordinate to the Chief of the Medical Inspectorate of the Luftwaffe, and when he said that he was subordinate to Anthony's office he simply wanted to express by so saying that he knew that aviation medical matters were handled in Anthony's Referat.

Q Are you trying to create the impression, Doctor, that Professor Woltz didn't know who he was working for, for five years or six years?

A I said explicitly that Woltz said in answer to Dr. Tipp's question exactly what he meant by that previous testimony.

Q We'll let the Tribunal weigh that.

Were any other institutes subordinate to you, Dr. Becker-Freyseng?

A I just said that no institutes were subordinate to me. Consequently, there were no other institutes that were subordinate to me.

Q This is a good breaking point, Your Honor. I'm going to another subject.

THE PRESIDENT: The Tribunal will now be in recess until 9:30 o'clock Tuesday morning.

( A recess was taken until 0930 hours, 27 May 1947. )

Official Transcript of the American Military  
Tribunal in the matter of the United States  
of America against Karl Brandt, et al,  
defendants, sitting at Nuernberg, Germany,  
on 27 May 1947, 1015, Justice Reals presiding.

THE MARSHAL: Persons in the courtroom will please find their seats.  
The Honorable, the Judges of Military Tribunal I. Military Tribunal I  
is now in session. God save the United States of America and this Hon-  
orable Tribunal. There will be order in the courtroom.

THE PRESIDENT: Mr. Marshal, will you ascertain if the defendants  
are all present in court.

THE MARSHAL: May it please Your Honor, all defendants are present  
in the courtroom.

THE PRESIDENT: The Secretary General will note for the record the  
presence of all the defendants in court.

Counsel may proceed.

MR. HARDY: May it please the Tribunal, before I start the continua-  
tion of cross examination I have one problem to take up with the Tribunal.  
Defense counsel for the defendant Becker-Freyseng has requested that the  
witness Dr. Eugen Haagen be called before this Tribunal. They have also  
requested that the case of Becker-Freyseng, Schaefer, and Beiglboeck be  
completed before Dr. Haagen is called to the stand as a witness in behalf  
of Becker-Freyseng in as much as they do not want to interrupt the con-  
tinuity of the sea water evidence. Prosecution is in agreement with that  
and, if it meets the approval of the Tribunal, it is suggested that the  
case of Becker-Freyseng be completed, then the case of the defendant  
Schaefer, and the defendant Beiglboeck, and then the witness Haagen be  
called before this Tribunal.

THE PRESIDENT: The Tribunal adopts the suggestion of counsel and  
that procedure will be followed.

MR. HARDY: Thank you, Your Honor.

BECKER-FREYSENG - Resumed  
CROSS EXAMINATION (Continued)

BY MR. HARDY:



Q. Doctor, during the course of your direct examination I understood you to say that when you assumed your duties as assistant Referent in the Referat for Aviation Medicine in 1941 that one of your major tasks was the remodeling of low pressure chambers, in as much as low pressure chambers existent in Germany at that time did not meet modern requirements. Is that correct?

A. Yes, that is correct.

Q. Can you kindly tell us whom you engaged to manufacture a new low pressure chamber?

A. I never engaged anyone, but the building of the new low pressure chambers was started by my departmental chief or by whoever has signed that order. A firm was entrusted with that task, Zeuzen at Frankfurt on the Main.

Q. How many low pressure chambers did you order at that time?

A. During my direct examination I explained that in 1941 we were not concerned with ordering new low pressure chambers but with the modernization of those chambers which were already available. I estimate that at that time we had twenty to twenty-five chambers that had to be remodeled that way. During the course of the war we had another few chambers and at the end of the war there were about thirty to thirty-five chambers.

Q. Then did the manufacture or reconstruction of each chamber take place in this factory in Frankfurt?

A. No, the Frankfurt factory sent their engineers to the place where the low pressure chambers were located, because they were firmly built into the ground. They were so-called immovable chambers and the firm sent a number of men to whatever place the low pressure chamber was located.

Q. Were there any other manufacturers of low pressure chambers other than at the Frankfurt plant?

A. No.

Q. What I am driving at, Dr. Becker-Freyse, is that I recall

that when Ruff needed spare parts for his low pressure chamber it seems to me that he sent his representative to Cologne to secure the spare parts. Now, who in Cologne would produce or manufacture spare parts for low pressure chambers, or were such parts available in any hardware store, for instance?

A. From my own knowledge I cannot say with what spare parts we were concerned. I am not informed about the particulars in this matter. I do know, however, that the firm Leibold in Cologne manufactured pumps. I assume that when procuring spare parts from Cologne Dr. Ruff turned to the firm Leibold. However, I know no particulars about that.

Q. Now, as I understand it from other conversations with people at Heidelberg, and during your testimony here, that you are decidedly an expert in the field of high altitude research, and I noticed that you are particularly familiar with the construction of low pressure chambers. Now, could you tell me just what particular equipment might go out of order in connection with pumps in a low pressure chamber? For instance, does a pump have anything to do with the barometer, electrocardiogram, realizing fully, doctor, that I am not familiar at all with the mechanics of a low pressure chamber and I am anxious to determine just what might go out of order in connection with a pump so that it would have to be replaced?

A. Well, I may repeat that I don't know in detail what actually went out of order.

Q. Barometer? Would a broken barometer have any connection with pump equipment?

A. I can't determine any direct connection between these two matters.

Q. What is the purpose of the barometer on a low pressure chamber?

A. The barometer serves to determine the exact altitude.

Q. What causes the barometer to rise and fall?

A. The rise and fall of the mercury is caused by the rise and fall of the pressure in the chamber.

Q. And what causes the rise and fall of the pressure in the chamber?

A. The pumps letting in the air or pumping it out again.

Q. And then would it be possible that the manufacturer in Cologne wherein Dr. Ruff attempted to secure spare parts for his pumps -- that barometers for low pressure chambers could be obtained from that source?

A. I wouldn't assume that, because the firm manufacturing such barometers was the firm Fuess in Berlin. I know of no firm for barometers in Cologne.

Q. Now, doctor, in a low pressure chamber can you tell us in the connection with the controls of a low pressure chamber just how far the various barometers and other dials are from one another. That is, relatively how far would the electrocardiogram be from the control and the barometers? Can you attempt to describe to this Tribunal just what the picture is of the equipment which is on a low pressure chamber?

A I must say the following in that connection. The installation of the electrocardiograph was a part of the low pressure chamber. However the electrocardiograph was used for the low pressure chamber, it could be placed at various parts, either inside or outside the chamber. Since I was not personally present during these experiments, I cannot give you any description which would correspond to the truth. In other words, how the various instruments were placed in relation to one another.

Q Could you, for instance, Dr. Becker-Freyseng, conduct an experiment alone? In other words, if you were conducting an experiment and using the electrocardiogram, could you conduct the experiment and manipulate the controls without any assistance?

A I would have to have one technical assistant or an engineer, and I think that then I would be able to perform a normal experiment. At any rate, I did perform numerous of such experiments.

Q Have you ever performed experiments in the course of your work in the field of high altitude — that is, either prior to the end of the war or at the Aero Medical Center in Heidelberg — and used the electrocardiograph?

A Yes. I think that was before the war. I may draw your attention to one thing, however. From the description which Dr. Rosenberg gave here, about the way how the electrograph he was using worked, it became evident to me that this was a special model not used by us in our institute. This was an instrument where the cardiac output could be observed through a tube.

Q Just what is the express purpose, Doctor — I want to get your definition of the express purpose of an electrocardiograph? What does it tell us?

A The purpose of an electrocardiograph is to register the electrical currents produced through the work of the heart.

Q Can you tell from the study of the electrocardiograph whether or not a person in a low pressure chamber, undergoing an experiment,



is in danger?

A. As I already said before, I never performed any experiments, where we could observe danger for our experimental subjects by means of the electrocardiograph. We used other methods in order to make that observation. After what I heard here from Dr. Remberg on the witness stand, I know, or I can confirm, that by means of the electrocardiograph one is in a position to carry out such an examination.

Q. Well, prior to the war -- to the end of the war, pardon me, what was the highest altitude that any of your experiments had attained? Did you go up to 20,000 meters in your experiments ever, prior to the end of the war?

A. I personally was engaged in other experiments and my highest altitude was only 15 kilometers.

Q. Now, Doctor, these low pressure chambers, they were under the control of the referent, is that correct, for Aviation Medicine?

A. Yes, after they were taken over by us.

Q. Now, that was in 1941? The low pressure chambers were taken over by your office; that is, the office of Anthony?

A. Now, this is not exactly right. That was already earlier. The low pressure chambers which had been taken over by the Medical Inspectorate, and that also held true in peace, were handled by the referent for Aviation Medicine.

Q. Did you have any further connection or authority over the allocation of the low pressure chamber after you had once assigned it to a particular institute?

A. No.

Q. Then, in other words, when you assigned a low pressure chamber to, say, Ruff's Institute, to Institute Helts, or to the institute at Rechlin, where Benzinger was the commanding officer, after the assignment then you had no further ado with that low pressure chamber? Is that it?

A. No.

Q. Suppose Dr. Ruff wanted to send the low pressure chamber to Rechlin? Benzinger called him on the telephone and said: "Dr. Ruff,

"I'd like to use your low pressure chamber for two or three weeks." Could Dr. Ruff transfer the low pressure chamber to the Institute at Dachau without superior orders?

A. That is something different again. The institutes and the other smaller research stations had their own low pressure chambers which were firmly installed. In Dr. Ruff's case we are concerned with a very special type of chamber, a motorized mobile chamber. The German Luftwaffe only had four of such mobile motorized chambers. Dr. Ruff explained here, in detail, that the low pressure chamber which was at his disposal for some time had been furnished to him on the basis of a very special approval by the Medical Inspector Professor Hippke. It was naturally furnished to him and to his institute and had he, for instance, wanted to transport this chamber to Dr. Benzinger at Dachau he would have had to ask for permission for that from Professor Hippke.

Q. And, of course, Professor Hippke would then consult with you inasmuch as you were his expert on low pressure chambers?

A. Yes, normally that would have to be assumed.

Q. Well, did he consult with you when Ruff asked to transfer the low pressure chamber to Dachau?

A. No, he didn't do that.

Q. That's rather unusual, isn't it?

A. It wasn't unusual in that case because this chamber had not yet been taken over by the Medical Inspectorate officially. Dr. Ruff had explained, and I can only repeat it, that this chamber had been sent to the German Experimental Institute for Aviation from the firm Zeiss in order to be equipped there with their latest equipment, such as breathing and communication equipment, and I as the competent referent for these questions, took over this chamber at the end of July or during the first days of August, 1942, in collaboration with a captain of the Medical Corps, Dr. Ernst Kellersmann, who confirmed this fact through an affidavit which Dr. Ruff has already submitted.

Q. Well then, if I understand you correctly, Doctor, the mobile low pressure chamber at Ruff's institute at Berlin-Mollath was not

under the supervision of the Medical Inspectorate until July, 1942?

Is that correct?

A At any rate, not under the supervision of the referat Aviation Medicine. After what I heard here, the Medical Inspector had to send the approval for the transfer of these chambers from Berlin to Munich.

Q Well now, when did you become -- on what date -- the day and month -- did you become Assistant Referent in the referat for Aviation Medicine?

A I believe that was the 8th of August, 1941.

Q And you then assumed, as one of your more important tasks, this low pressure chamber business, is that right?

A I believe I explained it in detail that I considered one of my main tasks to be the modernization of the low pressure chambers.

Q Then, every low pressure chamber in the Luftwaffe was of interest to you, was it not?

A I believe that one word was lost during the interpretation and it was the word "ortsfest", immobile.

Q Well then, in other words, you had nothing to do with the mobile low pressure chambers? No jurisdiction over those whatsoever?

A. In that connection I have to tell you the following: the immobile low pressure chambers had all been built before the war, and for that reason were built in correspondence to the research regulations as they prevailed before the war as to their resistance to high altitude. During his inspection in the year 1911 Dr. Ruff had found out that these old immobile low pressure chambers no longer sufficed for modern requirements. The modernizing of these immobile low pressure chambers became my main task. The mobile low pressure chambers on the other hand were all built during the beginning of the War. For that reason they all complied with these requirements I just mentioned, so that it was no longer necessary to remodel these mobile low pressure chambers. In addition, the low pressure chambers were all subordinated to the air fleet, were permitted by the air fleet in order to examine and instruct the pilots of the various flying units. From the moment when by order of the Medical Inspectorate I took over this low pressure chamber, together with Captain Kellersmann, this low pressure chamber had also been subordinated to an air fleet, and after a short stay in the Alps for research purposes was sent for lecture purposes to the Troops.

Q. Well, then in summation, Doctor, after August 1941 you had jurisdiction over the permanent low pressure chambers, but did not have any authority over the mobile low pressure chambers and would not have jurisdiction in any manner whatsoever over the low pressure chamber used at Dechau until July 1942, but that prior to that time the jurisdiction over that mobile chamber was purely in the hands of Ruff and Hippke, is that correct?

A. This entails such an enormous amount of individual questions that I cannot possibly answer it with just one answer.



Q. You can answer just one of them; first of all I will ask them individually; after August 1941 you were assigned the task of remodeling low pressure chambers for the Luftwaffe, is that correct?

A. Yes, this task was assigned to me.

Q. That duty assignment did not include work on mobile low pressure chambers?

A. No, not on motorized low pressure chambers.

Q. When was the first time that you had anything to do with low pressure chambers, that is mobile low pressure chambers?

A. Do you mean when I for the first time had anything to do with mobile low pressure?

Q. At any rate when did you have any jurisdiction over — when did you have any authority as referent in the regard over these mobile low pressure chambers?

A. You mean the mobile ones don't you?

Q. The mobile?

A. As far as I remember that was approximately at the end of July 1942. When, in collaboration with the already mentioned Captain Kellersmann, I took over the low pressure convoy for Dr. Ruff.

Q. Alright, then you had jurisdiction over the mobile low pressure chambers — pardon me, we will qualify it, Doctor — you had jurisdiction over the single mobile low pressure chamber used at Dachau prior to July 1942?

A. I can only tell you what I heard here. I heard that Dr. Ruff obtained the approval for the use of these chambers from Professor Hippke. In other words, at that time he didn't consider himself competent enough to send this chamber to Dachau on his own initiative, but obtained Hippke's approval for that.

Q. Then Ruff and Hippke had jurisdiction over the low pressure chamber and consider it in the same light as an orphan child?

A. It was no orphan child. I would designate this circumstance as the birth of the child.

Q. Allright. We will go on, Doctor. In connection with your testimony concerning research assignments within the Luftwaffe, whenever a research assignment order was issued, and at this point I will not quibble with you about the originator of the orders, that is the person with authority to give the orders, but when a research assignment was issued, who supplied the funds to carry out that assignment?

A. The funds were supplied by the Medical Inspectorate of the Luftwaffe, and after the 1st of April 1944 that was done by the Office of the Chief of the Medical Service of the Luftwaffe.

Q. Didn't your chief have anything to do with the funds at all?

A. The Referat of Aviation Medicine had nothing to do with the funds. There was a Referat Budget with its own administration staff, and it was only the task of the Referent for Aviation Medicine to solve the question in cooperation with the Budget Referent whether there was anything against the reason given for any research work, and the Budget Referent then confirmed his approval by making a sign on the original research assignment to that effect.

Q. Now, just a moment, Doctor, it is my understanding that all research assignments in the field of Aviation Medicine had to pass through the Referat for Aviation Medicine Office after May 1944, and prior to that time the Office of Anthony who approved-----

A. May I interrupt you shortly. I think you were saying May 1944, were you?

Q. Yes. Now who approved the allocation of funds for the particular research which was ordered by the Chief of the Medical Services or by your office?

A. In that connection I may point out to you that my Referat did not order the furnishing of these funds, but only suggested them. The approval for such funds was reserved for the Medical Chief himself.

Q. Now, we are getting down to something, Doctor. Then after it was determined that a research assignment should be made in the field of Aviation Medicine, the approval for the assignment would be made by your office, is that correct, because Professor Schroeder certainly couldn't study all these things. He was a busy man. You would have to study the assignment and determine whether or not it was necessary at this time, inasmuch as you had a lack of manpower and a war going on; now, the research assignment must have been approved in the Referat for Aviation Medicine wasn't it?

A. I don't quite understand what you said. Did you say it was my task to approve all research assignments.

Q. Who approved the research assignment wherein it was necessary to allocate funds to carry it out, who approved these?

A. The approval for any research assignment was reserved for the Medical Chief and before for the Medical Inspector. It was the task of the Referat to furnish the necessary data in order to make that decision.

Q. In other words, the Referat would suggest what decision should be made? Now, in your position as Referat after May 1944 did you have the power to pay sums of money

for experimental purposes?

A. In my capacity as Referat with the Chief of Medical Services I did not have such authority.

Q. Did your Chief, that is Professor Schroeder, know of what you were doing, did he have any idea of what your duties were?

A. I would assume that.

Q. He tells me that you had the power of Attorney, nevertheless, to pay sums of money for experimental purposes?

A. Can you tell me about the connection in which Professor Schroeder made that statement. I think there must be an error. Not a single referent could place his signature to a grant of funds. That could only be done by the Chief of the Medical Services for any annual grants.



Q. Then it is your contention that Professor Schroeder did not know his job; is that it,

A. I would rather believe that there must have been some other misunderstanding during your conversation with Professor Schroeder. I am sure that Professor Schroeder was very well versed with his task and no error could have been possible.

Q. Well, now, in these research assignments, Doctor, when did you first report to Professor Rostock concerning research assignments of the Luftwaffe?

A. I remember one time, that was in the summer of 1944, when we sent a list of all research assignments to Professor Rostock's office. I cannot give you the exact date, it could either have been in July or August 1944.

Q. Why did you send reports to Rostock's office?

A. If I remember correctly, I was ordered to do so by my medical chief, Professor Schroeder. I don't believe there was a request made by Rostock's office, however, I can no longer tell with certainty.

Q. Well, now, you received an order from your medical chief to send reports to Rostock in 1944; is that correct?

A. I probably did not get this order personally from my medical chief, but I got it from a departmental chief, however, in the final analysis it did come from him.

Q. Did you understand at that time that the Luftwaffe was doing research in the field of the development of the Reichswehr for health and protection under Dr. Goebbels?

A. I think that I know that at that time.

Q. How often did you send reports to Rostock?

A. Such collective reports, as the report concerning the 27 research assignments, was only sent out once as far as I remember by the office of the chief of the Medical Services. Later on copies of the large research assignments were sent to Professor Rostock's office.

Q. Then you sent a collective report for the first time to Rostock in 1944 and thereafter you sent him a copy of each research order; is that right?

A. Yes, he received a copy of these research assignments issued later. There were only very, very few, however.

Q. Did you send him a report on the sea-water experiments?

A. I am sure that I did not, because that was no research assignment.

Q. Did Rostock have any reason to know about the sea-water experiments?

A. I know of no such reasons.

Q. Were you ever at a meeting concerning the sea-water experiments and at such meeting a representative of Rostock was present?

A. It is possible that at the last meeting that took place I think at the end of September 1944 at the Plakturn at the Zoo, when Professor Seidelboeck was speaking about the cause and the results of experiments, a representative of Professor Rostock was present. This is quite possible. I know for certain, however, that Professor Rostock was not personally present.

Q. Do you know whether or not your predecessor, Anthony, sent reports to Rostock?

A. No, I know nothing of that.

Q. You don't exclude the possibility, however?

A. It is highly impossible because Rostock's office came into appearance only in the year of 1944.

Q. It came into appearance in January of 1943, didn't it, correct, actively?

A. I cannot say that. It was only in the summer of 1944 that I learned of the office of Rostock.

Q. Looking at the evidence here, to see the authority for the status of the office was given in 1943?

A. Yes, I believe I remember having heard of here, but it always takes some time before any such office starts working.

Q. It takes a whole year?

A. Well, I can only say that from my point of view and as far as I could see, I only knew of Rostock's office in the year of 1944.

Q. Well, now these research assignments which were ordered by the chief of the medical service or by the medical inspectorate, accompanying the assignment a certain amount of money was allocated; what did you direct or what did the medical inspectorate direct the researchers to do in the way of reporting? Did you have some check on just what was happening to your money,

A. Yes.

Q. How often did you request the particular scientist; how often did you require reports from the particular scientist?

A. Are you now speaking about reports regarding the research or regarding the use of the money?

Q. Regarding the use of the money.

A. The accounts regarding the money were made at the end of the budget year after the money had been used. Only such amount of money was distributed as was expected to be used during the course of one year.

Q. How often did you require them to report on the results of their research?

A. Most of the research men were asked to send half yearly reports, however this was not done in every case because considering the situation at that time there may not have been anything to report every half year. Enough confidence was placed in the various research workers and it was assumed that they would report any way had they found anything worth while, however, it was stated on the research assignments that they were requested to send in reports every half year/

Q. Doctor, when did you first hear of the high altitude experiments at Dachau?

A. That was when Dr. Rascher and Dr. Rosenberg showed their film. I rather intended to show their film at General Field Marshall Milch's office.

Q. Did you see the film?

A. No.

Q. Were you present?

A. No.

Q. Do you know who was there?

A. I know it now from the documents submitted here.

Q. Did you ever talk to Dr. Bonsinger about it afterwards?

A. No.

Q. Do you know whether or not he saw the film?

A. According to the report by Dr. Rosenberg, which was submitted here, I assume that he saw it. I cannot say for certain.

Q. Did you hear any repercussions as a result of the showing of that film?

A. Repercussions, I know of none.

Q. Who informed you that there was to be a meeting in the R.L.H., wherein a motion picture film was to be shown concerning high altitude research?

A. During my direct examination I explained that a telephone call was made that morning, which I received in the report that morning to the effect that either Professor Kalk or his assistant Dr. Bruchl were asking whether we knew any thing about a film and a lecture regarding high altitude experiments, which was to be shown in the Reichs Ministry for aviation.

Q. Then Professor Kalk informed you; is that it?

A. No. I have just said what Professor Kalk told to me, he said no more than that because that happened before the film was shown and at that time he of course knew none of the details. I can't say whether it was Professor Kalk or Dr. Bruchl.

Q. I understand that this film in this meeting was supposed to



be a secret matter; was it not?

A. I know nothing of that and the only knowledge I have comes from the documents submitted here.

Q. Were you usually informed of all secret matters?

A. It depended whether I had to know them or not. Naturally I learned about secret matters during the war. I certainly did not learn of all secret matters.

Q. Did you learn of all secret matters in the field of aviation medicine?

A. Certainly not, because I found out about a number of them after the war, which I did not know before.

Q. Did you learn of all matters in the field of aviation medicine after the time you became referent for aviation medicine?

A. I cannot really answer this question because I don't know what secret matters existed.

Q. If you did not know, who did?

A. I don't know what secrets there were, except the things I actually knew regarding those things. I actually don't know who knew them.

Court 1

Q. Doctor, do you know Dr. Kottenhoff?

A. Kottenhoff, yes I made his acquaintance in the year 1944.

Q. Did he have any connection with your organization?

A. Yes, for a few days in the summer of 1944 he was for a few days with the office of the Chief of the office of the Chief of the Medical Service, but was transferred immediately thereafter.

Q. Did you know him before that time?

A. No, I did not know him.

Q. When did you first make the acquaintance of Dr. Weltz?

A. My first personal memory of Weltz dates back to July 1942. That was on the occasion of the aviation medicine conference in Hamburg. I would assume, however, that I had seen him before that time somewhere. However, I cannot give you an exact date.

Q. Will you tell me, doctor, a few more details concerning your first meeting with Rascher, just when did that happen?

A. I think that that happened on the occasion of the conference between Hippke and Rascher, which, according to a document which I have seen here, dates to June 1942.

Q. That is June 1942?

A. Yes, June 1942.

Q. Well when did this meeting - pardon me - where did this meeting take place?

A. This meeting between General Oberstabsarzt Professor Hippke and Rascher took place at the office of Professor Hippke.

Q. At the office of Professor Hippke, how did you

Court 1

happen to be there?

A. I didn't quite understand.

Q. How did you happen to be there?

A. I was asked to attend the conversation, it was Generalarzt Dr. Marius, my department chief, who ordered me to do so.

Q. Who asked you? You say Dr. Marzius asked you to attend this meeting?

A. Yes, Dr. Marzius ordered me by request of the medical inspectorate to go there. This office was just one floor below my department, that is, under the department of Generalarzt Dr. Marzius, and in this department our referat was located.

Q. Do you any idea why he asked you to come to this meeting?

A. Yes, I have an idea and I have already explained that during my direct examination.

Q. Give it to us again?

A. I received an order to go down to Hippke with the files concerning the planned cold meeting in Nurnberg. Originally Anthony was to go there but since he was not present I was to replace him.

Q. Did you usually represent Anthony when he was not present?

A. I didn't usually represent him but only on certain occasions, on occasions when my departmental chief ordered me to do so.

Q. I am asking you what time, when did you represent Anthony?

A. There were occasions, not times.

Q. I see. Now at this meeting between Rascher and

Court 1

Hippke, Rascher spoke very clearly, did he not, about the use of concentration camp inmates for experimentation purposes?

A. I don't remember him having spoken particularly about concentration camp inmates. He mentioned that he had received a special commission for particular cases to use condemned criminals as experimental subjects, who could volunteer for those purposes, and to whom a mitigation of their sentence would be promised, as a result of such experiments.

Q. Now, doctor, this meeting took place in June 1942 and the reason why you were called to the meeting was to make arrangements for the cold conference in Nurnberg in October, is that the reason?

A. No, I was asked to attend because Professor Hippke wanted information on what the individual members of the Luftwaffe, who were dealing with the cold problem, would be lecturing about. He wanted to recommend one of these experts to Professor Rascher so that he could get in touch with him.

Q. Did you gather from the conversation why Hippke wanted to make the recommendation to Rascher, for what reason?

A. I assumed that Rascher asked him to name an expert for cold problem.

Q. Well what did Rascher want to know that for?

A. At that time I assumed and I still assume that Rascher wanted to collaborate with a scientist who had his own personal experiences in this field.

Q. That was the gist of the whole conversation - that Rascher was seeking an expert in the field of cold, from



Court 1

exposure, - shock from exposure to cold, is that it?

A. At any rate that was the subject of the conversation as long as I was present. I was only asked to attend the conference after it had already started and I left Professor Hippke and Rascher before the end of it. In other words, I was only present for a brief period during the middle of the conversation.

Q. Then as near as I can gather there were two things you heard at this meeting between Rascher and Hippke, No. 1, Rascher was seeking the collaboration of an expert in the field of freezing, and No. 2, Rascher talked about the use of inmates in the concentration camps for experimental purposes. That was only two things you heard at this meeting?

A. Yes, these were the two subjects, whereby I want to emphasize once more that I don't remember Rascher using the word "Concentration camp inmates". He used the word "criminal".

Q. I see, Rascher mentioned the criminals that Himmler would assign to him for use in experiments?

A. Yes, he was mentioning that.

Q. Now, I assume you are an intelligent young man. You have exhibited on the stand superior intellect, were you not able to ascertain at this meeting Rascher's intentions?

A. I don't know what you understand by Rascher's true intentions.

Q. Couldn't you put two and two together and make four, namely, criminals on this hand and seeking an expert for freezing research on the other hand, and that the two of them together make experimentation on human beings?

Court 1

A. Certainly this was discussed very openly in Hippke's presence and that is what I said during my direct examination. One needs no particular intelligence for that.

Q. Then you knew in June 1942 that experiments on human beings, condemned criminals, you say, were to be performed by Dr. Rascher and a collaborator?

A. Yes, I said that during my direct examination.

Q. With the approval of Hippke?

A. Yes, with the approval of Hippke. I had assumed that. Mind you I didn't stay until the end of the conversation but since Hippke discussed the matter with Rascher I had assumed it was with his approval.

Q. When was the next time you heard about the freezing experiments?

A. The next time was in Nurnberg, at this discussion here about distress at sea and winter distress on the 26th and 27 of October 1942.

Q. Who arranged the Nurnberg conference?

A. The preparations for this meeting were made by the referent. That was Professor Anthony at that time and I had a few duties of an organizational nature, for example, four weeks before this meeting I was here in Nurnberg for day or two and investigated hotel possibilities and arranged a few other questions, such as for the hall for the meeting and equipment and so forth.

Q. Then you were on the committee for the arrangements of the meeting in October 1942?

A. There was not a committee. The preparations for the meeting, not only this meeting, but all of the twelve meetings of this nature which the Luftwaffe held, were always made by the referent because he was in charge of

27 May 47-M-AK-8-6-Cook-(Rammner & Von Schoen)

Court No. 1

discussions later and I had organizational tasks, just as later, for example in 1944, I assigned such duties to some one else.

Q. Yet you were making all these arrangements for hall and for chairs, etc. You didn't know what the meeting was for?

A. I didn't say that I didn't know that. I knew the subject. I know more or less the program of the lectures.

Q. Did you know Rascher was going to lecture?

A. No. That was not expected. The report on this meeting indicates clearly that Rascher's lecture was a so-called discussion remark - it was not a planned lecture.

Q. I see. Well, now, doctor, on page 77 in Document Book II. Do you have the German Document Book II before you? This is Document 343-a-P8 - a letter from Erhard Milch to Wolf and is the "Dear Wolfy letter".

A. Yes, I have that. Yes, I have the document.

Q. Now, in this document I note that Milch states in the first paragraph about seven lines down from the top "These have been prepared in immediate agreement with proper offices; Oberstabsarzt Veltz will be charged with the execution and Stabsarzt Rascher will be made available until further order in addition to his duties within the Medical Corps of the Luftwaffe." This is concerning the institution or the initiation of the freezing experiments. Can you tell me and the Tribunal how Milch received information that Veltz and Rascher would be good men to put on this assignment? Who would advise Milch in that matter?

A. Unfortunately I cannot give you that information. I can only refer to what Professor Himpke said as a witness in the Trial against Field Marshal Milch. I know no more than that and it is not quite clear to me now at the end of my life such a letter could have been written. Up to this point I had believed that when Rascher talked to Himpke these experiments were discussed for the first time, but



here I see it must have been discussed three or even four weeks before hand and must have been discussed by various people.

Q. Are you certain then of the date that you have given us about the meeting between Hippke and Rascher? Might it be possible that that meeting took place two or three months before the date you have said, June 1942 you have said? Might it be possible the talk took place in March, April, or maybe six months before, or even the summer before, June 1941? That might fit into all these plans. Are you certain of that date - June 1942?

A. In June 1941 I was not yet an assistant referent in the Medical Inspectorate. I was in Roumania at that time.

Q. Could it have been in August 1941?

Q. That is quite impossible. I remember it as much later. I thought that this Rascher-Hippke talk, where I was partly present was in the middle of the summer, perhaps July or August of 1942. But according to Document NO-283, Exhibit 80, Rascher's letter to Himmler, it has the right date and fits in with the rest of the documents and as far as I can judge means that this meeting was on 12 June 1942, because on the 15 June Rascher writes to Himmler - "a few days ago I was called to the Inspector of the Luftwaffe Medical Service, etc." and since I was present at only one conversation between Hippke and Rascher this must be the one he is talking about here.

Q. Well, didn't it seem to you that this meeting between Rascher and Hippke, that this was the first time Hippke had discussed this problem, that is what I gathered from your testimony?

A. That had been my impression - that that had been the

first that Hippike talked to Rascher about it. I had the impression that Hippike had known Rascher before, but I might think this was the first time they had talked possibly.

Q. Well, then the testimony of Woltz was enlightening to you when Woltz told us he had discussed the problem with Hippike himself in the summer of 1941?

A. Yes, I heard that.

Q. However you still maintain that the date of June 1942 when the meeting between Hippike and Rascher took place?

A. Yes.

Q. Your Honor, I might suggest that we could have a ten minute recess if it meets with the approval of the Tribunal.

THE PRESIDENT: Very well, the Tribunal will be in recess for a few minutes.

Court I

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Counsel may proceed.

BY MR. HAREY (Continued)

Q Dr. Becker-Freysong, how often in the course of professional business in the Office of the medical Inspector of the Luftwaffe, did Professor Hippke refer to the referent of Aviation Medicine in regard to matters pertaining to that particular field?

A I am afraid that is a question I can't answer. I could say how often Hippke called me, for instance.

Q Well, he called you in; how often?

A Not very often. I would estimate that it was five to 10 times but I wouldn't want to give any definite figure. It was certainly not oftener than that.

Q How often did Hippke concern himself with matters in the field of Aviation Medicine without referring to the referent?

A Very frequently I am sure. I alone of quite a number of matters, where Professor Hippke for example, delivered lectures on aviation medicine.

Q How do you know about them?

A Because I heard them later.

Q He never reported to you about them or told you about them or asked your advice about them?

A Those are two questions, you ask me first, whether Hippke reported to me, - no. It is not customary for the boss to report to his subordinate, and he very seldom asked me for advice. The referat was Anthony. There is an old German saying that you should get to the Blacksmith and not to his apprentice and during Anthony's time Anthony was the blacksmith. Only when Anthony was not there or when it was something very specific that I had worked with then Professor Hippke called me. For example, at the discussion we have just been talking about.

Q Then I presume whenever Professor Hippke concerned himself

Court 1

in matters in the field of Aviation Medicine that he would consult with Anthony, that was the reason why he had Anthony there?

A. I can't quite answer this in the affirmative, because I know of cases when Professor Hippke dealt with aviation medicine questions himself without consulting Anthony.

Q. How could your office, that is Anthony have efficiently performed his task in the assignment without have complete knowledge of the activities in his field.

A. In my explanation of the duties of the referent, which is very thorough, I said that the referent worked on the orders of his superiors and of course it happened from time to time that these superiors acted independently on an aviation medicine question without consulting the referent for aviation medicine.

Q. Well, now you tell us that it was your understanding in these experiments that criminals condemned to death were to be used, is that correct?

A. I don't believe I said that. I said that convicted criminals were used. From that discussion between Hippke and Rascher I didn't know of anything about the persons condemned to death, and I never said so.

Q. What is your opinion about the ability of a person incarcerated to volunteer for an experiment?

A. I should like to refer again to my direct examination and repeat briefly that in the first place from my works of German and foreign works, I know that throughout the world the possibility is recognized for prisoners to volunteer.

Q. I am not interested in the possibility throughout the world; I want to know Becker-Freysseng's opinion, what do you think about the possibility of a person incarcerated in prison to volunteer for an experiment?

A. My personal opinion is that under the conditions an incarcerated person volunteers readily for such an experiment when a special noti-



Court 1

gation of sentence is promised to him, and even if no such promise is made, because he can assume that by participating in such an experiment he will put himself in a good light in the eyes of the parole board, and most of the prisoners would be interested in that.

Q Well, now you issued or ordered the sea-water experiments, or initiated them, or whatever nomenclature you wish to adopt; you have told us you have accepted the responsibility for the sea-water experiments, and in the sea-water experiments that used concentration camp inmates; those inmates were criminals, convicted criminals; did you approve of using convicted criminals in those experiments?

A I want to correct one thing first, I said even today I take responsibility for the sea-water experiments, that is the responsibility which was due to me at the time according to my position as referent, to come back to your question --

Q Just a moment, Doctor. In connection with that if you assume responsibility for the sea water experiments. Then you did anticipate or would you state that Anthony would or should assume responsibility for all these experiments performed on behalf the Luftwaffe, -- that is that happened prior to May, 1944?

A I cannot say that, because I don't know what part Anthony had in the planning or suggestion of these experiments.

Q You just stated Doctor, you assume full responsibility for sea water experiments because of your position as referent in the Referat of Aviation Medicine, now by the way taken don't you think it possible that Anthony should accept responsibility of the experiments was brought down to the Referat?

A Under this last condition I believe Anthony would still take the responsibility today, but I should like to point out that I make a clear distinction between the sea water experiments and other experiments as far as the participation of the Referat for aviation medicine is concerned. I got this from the documents submitted by the Prosecution, and

Court 1

I do not believe Anthony would take the responsibility for experiments which he never suggested or in the planning of which he participated, and can take responsibility only for things which one plans or suggests or carries out ones self.

Q. Would you assume responsibility for the sea water experiments? One must assume that have had jurisdiction in order to assume responsibility

A. I believe in the course of my direction examination I explained my responsibility very carefully. I did not have jurisdiction nor independent supervision, but I had since there was no other possibility for carrying out these sea water experiments, and since my own plan which I mentioned of treating a group of the Luftwaffe at Dusterbeg in order to have experimental persons at the disposal at any convenient time. This plan was rejected by my superiors, I pointed out that as a last possibility that these experiments, which I considered completely harmless, and I take the responsibility of that --

Q. We will come to the sea water phase a little later. I want to go back to the subject of volunteers used in your sea water experiments. We know they were going to use convicted criminals, that is what you understood would take place that convicted criminals were to be used in the experiments?

A. Yes.

Q. And what did you understand would be the reward given to the convicted criminal for subjecting himself voluntary to the sea water experiment?

A. In the case of the sea water experiment he never mentioned any special rewards. I said before that I can imagine that a criminal volunteers, not only for a special reward, but also without such a reward. There were several reasons --

Q. And you are not sure whether any rewards were offered?

A. I know that Professor Beigelbeck procured special cigarettes

Court 1

ations for these people and give them to them, and that he tried to get other rewards. Professor Seigelbock will tell you about that himself.

Q Did you see him give the cigarettes to the prisoners?

A Since I was never in Dachau I did not see that. I have already stated.

Q Inasmuch as you were taking full responsibility for the sea water experiments do you think that it would have been much better had you thought about the matters more seriously and offered a reward to the political prisoners that volunteered for the experiments or offered a reward to perhaps a Jew incarcerated in a concentration camp for having committed Rassenschande, rather than offering a reward to a criminal who might go out and be a menace to the public again; didn't that occur to you? You are a clear thinking young man, or weren't you interested?

A I must tell you that my chief, Professor Schroeder, as is true with the Reichsarzt of the SS Police, told me that he had talked to Grawitz about soldiers unworthy for military service being used for these experiments. As far as I know everything else was eliminated because I had nothing to do with the selection of the subjects nor with the question of reward. Besides I am convinced that if I had suggested that political prisoners be used for these experiments the prosecution would use that as a special charge against me today.

Q Well, now in the field of high altitude research you have testified here quite extensively concerning the adaptability of experimental subjects to high altitudes, inasmuch as you are an expert in this field, a man who has done considerable work in Heidelberg since the end of the war in explosive decompression, can you tell me how many times an average individual can undergo a high altitude experiment and in what space of time he can undergo said experiments before he becomes acclimated to high altitudes?

A I don't know where you got the idea that I had done a great

Court 1

deal of work in explosive decompression. I never said no.

Q You have done it at Heidelberg since the end of the war, haven't you done a considerable amount of work in explosive decompression at Heidelberg? That is what I understood from your direct examination?

A No, I worked on bombs, that is the condition when a altitude of 12,000 meters altitude or some other altitude is reached normally. Explosive decompression is a change in pressure taking place within seconds from normal pressure to the pressure of very high altitude.



Q. Doctor, do you feel that you are in a position to testify before this Tribunal concerning the adaptability of an experimental subject to high altitude as an expert?

A. Yes, I assume so, because I have performed experiments myself on adaptability to high altitude.

Q. Can you answer my question, does a person ever become adapted to high altitude?

A. In this general form the question has to be answered in the affirmative.

Q. And if a person becomes adapted to high altitude, I imagine he would be useless for experimental purposes?

A. That depends on the nature of the experiments one wants to conduct, for certain types of experiments this condition is not the correct basis, that is true.

Q. It follows, however, that you would not get average statistics if you used a person who became adapted to high altitude?

A. Yes, they would be average figures under these special conditions.

Q. Is there any set period wherein a person becomes adapted to high altitude; for instance, would it be four or five times undergoing extreme altitude in a period of a week, which would cause a person to become adapted to it; or would it be within a month or would some people never become adapted or is it possible to strike an average? You may answer that extensively if you care to, doctor.

A. I will be glad to do so because one can explain this matter very simply and I shall try to do so. Genuine adaptation to altitude is only the circumstance or rather the condition arising after a stay at high altitude for some time. For example, in the Alps between 3,000 and 4,000 meters it takes about two weeks to be complete. At even higher altitudes, for example, in the Andes or the Himalayas, it is possible for the mountain climbers to go up to 8,000 meters and adapt themselves to this altitude and this of course takes even longer. Between this true altitude adaptation and what occurs when a person rises rapidly in

the low pressure chamber for a limited time there is a definite distinction. It is not possible to obtain altitude adaptation through repeated stays in a low pressure chamber. In any case not if these low pressure chamber experiments are limited to a period of time to two, three or four months and if for example there is only one ascent per day and then after the second, third or fourth time the person is a little more resistant than the first time.

Q. After the first or second time, did you say?

A. Yes, but that means only very slight increases in the resistance to altitude. It is possible because in the first ascent the subject is unused to this new situation and does not act quite right, perhaps the breathing is not quite right, and these inhibitions will be removed on the second or third time when the subject is used to the situation. Now if we continue these pressure chamber ascents for years, such as the people working in aviation medicine are forced to do, the man later, say after nine months or a year, there is a further improvement in the resistance to altitude, but this does not approach what is caused by a stay in the mountains. I do not believe that the results of experiments could be influenced by it if within three months, twenty or thirty or thirty-five experiments were performed on the same person.

Q. Supposed you used me for instance as an experimental subject. Do you think I could take five of these tests a week and not become adapted for a period of three weeks?

A. According to what I have just said, I do not believe that you would be adapted after three weeks. I assume that you are healthy; you could of course undertake five experiments with the lack of oxygen within a week without suffering any ill effects.

Q. For a period of three weeks and not become adapted?

A. Yes, altitude adaption is not caused by a limited stay daily in a low pressure chamber.

Q. Now, how can you tell when I become adapted? Give me a simple answer.

A That is very simple to determine. The first time I check either how long you can go on without oxygen at a certain altitude, how long you can stay at a certain altitude or how far you can ascend without oxygen, that is an ascent experiment. If I repeat the same experiment after three, four or six weeks, I can determine whether you can remain in for a longer time at the same altitude or at the same speed or whether you can go to a higher altitude without becoming sick. That test is very simple.

Q Now in a period of two months, Doctor, might I become adapted if I was used thirty times?

A I have already said, repeated ascents in the low pressure chamber cause a very slight improvement in the resistance to altitude, but nothing that aviation medicine calls altitude adaptation in the strictest sense.

Q Now, Doctor, the freezing experiments at Dacheu; your first encounter with any activities concerning experimentation in the field of research concerning freezing or shock from exposure to cold was after having sat in at the meeting between Hippke and Rascher; is that the first time?

A Not after the meeting, but the discussion between Hippke and Rascher was the first time I heard anything about it, because I was called in to participate in this discussion.

Q On Page 11 of document Book 3, this is document 343-78. Line 12, I am sorry, this is document No. 263, that is the letter from Rascher to the Reichsfuehrer concerning the assignment of Jorisch, Balzschner and Singer to work on the problem of freezing; is you has that letter, Doctor?

A I have the photostat of the document, yes.

Q Was Jorisch in the Luftwaffe?

A This is Professor Jorisch, he had no office or position in the Luftwaffe.

Q Was Balzschner in the Luftwaffe?

Q. Holzlochner was a Stabsarzt or Oberstabsarzt in the Luftwaffe, yes?

Q. Was Singer in the Luftwaffe?

A. I have learned here that Singer was a Luftwaffe pathologist in Munich. I believe in the research assignment list there was some research assignment given to Singer from which I have seen, he must have been an Oberstabsarzt during the war. I do not know him personally and I had nothing to do with him.

Q. Rascher was in the Luftwaffe?

A. Yes, Rascher was a Stabsarzt in the Luftwaffe.

Q. Pelz was in the Luftwaffe?

A. Yes, that has been established here.

Q. Were the freezing experiments at Dachau Luftwaffe experiments or SS experiments?

A. According to what I heard at the time from Rascher, I thought they were definitely Rascher's experiments, based on specific order and approval of Himmler.

Q. Where did Holzlochner report on the experiments, or rather Rascher; where did he report about his work, did he report at the October meeting in Nurnberg?

A. The experiments were reported only and exclusively to Himmler. Rascher had obtained permission from Himmler to speak at the lecture. The sub-water experiments were a top secret matter and he was to give only as much information as necessary.

Q. That meeting in October in Nurnberg was a Luftwaffe meeting; was it not?

A. Yes, it was a Luftwaffe meeting or a meeting on behalf of the medical inspectorate of the Luftwaffe.

Q. Do you know where Jarisch is now?

A. I assume that he is in Innsbruck.

Q. Do you know where Holzlochner is now?

A. No, I do not, I heard he was dead.



Q Did you know that he committed suicide?

A I heard that, yes.

Q Was the cause for his suicide his participation in those experiments?

A I don't know, I could not say.

Q This is a good breaking point, Your Honor.

THE PRESIDENT: The Tribunal will be in recess until 1:30 this afternoon.

(A recess was taken until 1:30 hours.)

AFTERNOON SESSION

(The hearing reconvened at 1345 hours 27 May 1947)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Counsel may proceed.

BECKER FREYSENG - Resumed

CROSS EXAMINATION - Continued

BY MR. HADY:

Q Dr. Becker Freyseng, in June 1942, during the course of the conference between Professor Hippke and Dr. Rascher did the names Dr. Jarisch, Dr. Holzschner and Dr. Singer ever appear or ever come into the conversation?

A I do not remember the name of Singer because he never played any part in air force research. However, the names Jarisch and Holzschner were mentioned at least in my presence because both these names could be found on a list of those who had to lecture during the planned meeting about emergency sea matters. I never heard at a later date that Professor Singer in any way worked on the scientific cold questions.

Q Now let us refer again, doctor, to document No. 283, that is a letter from Rascher to the Reichsfuehrer. It is on page 12 of English document book No. 3. This letter, as you know is dated 15 June 1942 and reads as follows:

A I may correct you, it is really June.

Q I said June, I am sorry:

"A few days ago I was ordered to a conference with the Inspector of the Luftwaffe Medical Service, General Oberstabsarzt Professor Dr. Hippke. When I told him you had not yet received the report concerning the experiments as a whole and you still had to give permission for the reporting of the results, he did not ask for any report. The Inspector was extraordinarily kind and asked me as liaison man with the SS to express to you, esteemed Reichsfuehrer, his private thanks for the experiments."

Now is it your contention Dr. Becker Freysang that this meeting here referred to by Rascher was the meeting between Rascher and Hinkel at which you were present?

A. I would assume so, yes.

Q. Now the letter goes on to say, Doctor:

"At the same time he (which refers to General Oberstabsarzt Professor Hinkel) asked for permission to carry out the cold and water experiments in Dachau and asked that the following be engaged in these experiments," and therein he lists three names, Jarisch, Holzschner and Singer.

Now during the course of the conference did you hear or did the letter come to that it would be necessary to engage a pathologist to assist and collaborate with Rascher and Holzschner or whomever was picked or chosen to work with Rascher?

A. No, a pathologist was not discussed in my presence.

Q. Well, now, as a medical man what would be the purpose for assigning a pathologist to this research detail?

A. The purpose for that may vary, because for experimental pathology a number of papers were written by me in collaboration with pathologists and I am therefore somewhat informed about this special form of pathology. I never heard that Professor Singer at any time concerned himself with cold questions. When I saw that document here for the first time I was very surprised. It says the name of Singer. At no time before had I seen that name in connection with cold or any other air force research work.

Q. What are the duties of a pathologist in German medicine?

A. The duties of the pathologist are extensive and varied. The main task of a pathologist is to search for the cause and the effect of the illness on the living organism. For instance, if a part of a body tissue is being cut out during an operation and if the practicing physician wants to know whether there is cancer, then part of it always went to the pathologist. On the other hand, whenever

any patient dies, an autopsy is very often being carried out in order to clearly find out the cause for the illness and the death. I have already told you that modern pathology in particular performs a great number of experiments. For instance, animal experiments, and even after this letter it does not seem apparent to me at all that Dr. Hippike at that time counted on death cases during these experiments just because he asked a pathologist to participate. It is quite possible that he mentioned this name of Singer to Rascher in order to get them into contact with one another since he knew perhaps, that Singer had particular information in that field but I know nothing about that personally.

Q. Then you exclude the possibility that Professor Hippike was fully aware of the fact that death did result from these experiments at Dachau and that it was necessary or would be necessary to have a pathologist on it so that he can perform an autopsy in order to determine the cause of death.

A. I cannot exclude that possibility because as a result of the films which I read and which were submitted during the trial of Hippike regarding Professor Hippike, I can see Professor Hippike admitted that possibility which you just mentioned. However, I know that no, I did not know that at the time.

Q. Doctor, let us turn to document no. 264, which is Prosecution Exhibit 88, as he found on page 22 of the English. This is a research order on tracing to Holslocher:

A. Yes, I saw the document.

Q. Now we see your file notation, that is the number 55, and then Exhibit 2, and numeral II 3, these are the file numbers of your office, is that right?

A. Since we are concerned with the year of 1942, this is the relevant Anthony where I was working, that is correct.

Q. And at that time Anthony was referent and you were assistant referent?



A. Yes, that is true.

Q. Then is it true that this letter originated from Anthony's office?

A. Yes, it came from the referat.

Q. I see. All now I note in the first paragraph after the salutation there is the following language:

"The Inspectorate of the Medical Service of the Luftwaffe has given order for research to the Stebsarzt Professor Dr. Holzlachner, reference above, dated 24 February 1942, for work on the following problem:

"The effect of freezing on warm-blooded subjects."

Now did this order for research to Professor Holzlachner initiate from your office?

A. I cannot tell you that from my own knowledge.

DR. TIPPS: Mr. President, in order to avoid any misunderstanding I may comment on that document as follows:

It was quoted here: "The effect of freezing on warm blooded subjects." Subject, however, must be understood as meaning the human being in the common usage of the English language. Perhaps the Interpreter would be kind enough to confirm that warm blooded beings as it is stated in the German document book, in other words "warmblueter" does not limit itself to the human beings but also extends to the animal. In other words, it means every being which has warm blood flowing in it's veins. I am making this remark now because the very same misunderstanding arose recently during direct examination and on that occasion the interpreter was kind enough to confirm that this translation was not correct. It should read, and I quote: "On warm blooded beings". Perhaps I may ask the interpreter whether he thinks this interpretation is more suitable.

THE PRESIDENT: Will the Interpreters give their opinion on the matter?

INTERPRETER: Yes, Your Honor, the other dry defense counsel

27 May 47 -4-14-5-22- Cook (Ramlar)  
Court No. 1

asked for my opinion when I suggested that interpretation to him,  
it should be warm blooded beings, instead of warm blooded subjects.

Q I now continue, doctor. It is immaterial to Prosecution whether that is subject or whether it is being, I might add. But did this research order to Professor Dr. Holzloehner initiate from Anthony's office?

A This research assignment was handled by the referat Anthony because certainly becomes apparent from the number of that research assignment above there. In addition I already mentioned repeatedly that aviation medical assignments were necessarily handled in the referat for aviation medicine. Here we were clearly with such a problem.

Q Now, we will note the next paragraph, doctor, which reads as follows: "At the proposal of Stabsarzt Dr. Rascher appropriate examinations were made of human beings, and in agreement with the Reichsfuehrer SS suitable facilities were used for the examinations."

It continues on: "In order to carry out these examinations a research group "Hardships at Sea" was set up, consisting of Profess Dr. Holzloehner as leader and Stabsarzt Dr. Rascher and Dr. Finke."

Now, might I gather from reading this document that the referat for aviation medicine was fully aware of the activities in which Rascher, Finke, and Holzloehner were engaged in at Dachen or might I assume that their work was merely working on actual cases of persons rescued from the sea?

A I didn't quite understand your question. Are you asking me now about the meaning of the research group "Distress at Sea"?

Q Yes.

A I cannot clearly answer your question from my own knowledge because I don't know whether at this time, in the summer of 1942, Professors Holzloehner, Rascher and Finke were at the channel coast and were working on "distress at sea" questions. I know that a number of other researchers were sent to the channel by Anthony and Hippke in order to gain experience. I do not know whether Holzloehner, Finke and Rascher were among them.

Q Well, then I submit to you, doctor, this possibility. Assume for the moment this research group of Holzloehner, Finke, and Rascher, as outlined in this document, were working as a research group on the sea shore, on the coast, with actual cases of persons rescued from sea. In as much as the document is signed by Anthony would you assume that Anthony was aware of the work being performed by Holzloehner, Finke, and Rascher?

A Let me say at first that this letter was not signed by Anthony. Anthony only certified the true copy.

Q I realize that, doctor. He signed the true copy. He must have read it to sign it. Do you think that he had knowledge of those activities?

A I would assume so because I have made a little file notice about the conversation between Hippke and Rascher which I handed to Anthony when he came back from his vacation. He then continued to deal with this matter.

Q Then on the face of this document it indicates to us that it originated from Anthony's office and this further that out - we see Anthony's signature appearing on the document. Now, isn't it true that Anthony's office ordered Professor Holzloehner to work on this particular subject and, in fact, set up this research group of Holzloehner, Rascher, and Finke?

A I am sure that the referat was not in a position to do that. Only Hippke was in a position to issue such an order.

Q But, doctor, it has the initials and the code, file numbers, of Anthony's office on the order. What are they doing there? Hippke doesn't write out an order and put down the file numbers of Becker-Freyseng's office. He puts down his own file numbers. It states here in the first paragraph that "The Inspectorate gave an order for research to Professor Holzloehner, reference above", and the reference that appears above is reference No. 1 and it has #55 there as the file numbers of Anthony's section, isn't that true?

A No, that is not true.



Q I suppose that you are going to tell me now reference No. 2 is the reference referred to in that paragraph. That is the only way that you can slip out, doctor.

A No, no, no. I think in my direct examination and also yesterday I discussed the file notices in great detail. I may repeat once more. The reference No. 55 and 11b show that this assignment was worked upon in the referat for Aviation Medicine and I repeatedly stated that all the original research assignments as far as they were not mere continuations had to be signed by the Medical Inspectorate or the Chief of the Medical Services.

Q Well now this report that is mentioned here in this document is undoubtedly the report which Holzloehner was to deliver at the October meeting. Is that a correct assumption on my part, doctor?

A What passage of the document are you referring to?

Q I am referring to the sixth paragraph which reads as follows:

"The research documents and an extensive report will be presented to the Reichsfuehrer-SS by Stebsarzt Dr. Bascher. It is requested that the originals or copies of the report and of the documents be put at the disposal of the Inspectorate of the Medical Service of the Luftwaffe.

"It is intended to make the results, in the form of an extract, accessible to experts at a conference which will take place in Nurnberg on 25 and 27 October 1942. The daily schedule of the conference is enclosed."

Now, then, as a result of this order from Hippke Holzloehner, Bascher, and Finke are to give a report that is a concise report at the Nurnberg Freezing Conference in October, isn't that the gist of this document?

A Were you talking about an oral report? Or a brief report? Yes, in this letter by the Reichsfuehrer-SS's permission is asked that the results of the experiments be published at Nurnberg.

Q I see. Well, now we will proceed to the report which was published at Nurnberg. This is Document NO-401, I believe.

A Yes, I have it.

Q It is to be found on page 79, of your Honor's Document Book, Document Book III, Prosecution Exhibit #93. If you will turn to the second page of this report, doctor, the section referred to as the "Contents". We go down to IV, headed "Treatment of Frozen Persons" and we see there the names of Jarisch, Welts, and Holzloehner. Are those the same gentlemen we have been discussing here this morning?

A I only know one Professor Jarisch and this is the one. Then we have Professor Welts here who is sitting in the dock and then there is Professor Holzloehner whom we have discussed here.

Q Now we go down to VI which is entitled "Measures to combat Thirst". We see there the name Schaefer. Is that the same as the defendant Schaefer?

A Yes, it is the same.

Q Schaefer was at this meeting, was he?

A Yes, he was present during that meeting and he held a lecture about combat of thirst.

Q Did he participate in any other phase of this meeting?

A Well I am sure he didn't participate in any of the discussions. I cannot say whether he was present during the lectures. At any rate I don't remember it. He had never had anything to do with the questions of freezing and cold.

Q Now we go down to VII and under there we see 5, the name of Huebner. Is that one and the same Huebner as the Huebner implicated with Eppinger in the sea water experiments?

A No, not only is it a different man but his name is different. This man here is H-u-e-b-n-e-r and the Professor whom my department chief asked for advice about the sea water experiments is not Huebner, it is Neubner. They are two entirely different persons.

Q. Now, the name just above that, #4. Doerfler. Who is that?  
Do you know that gentleman.

A. I think I have seen him once. That was on the occasion of that  
Euerberg meeting. He was a captain in the Medical Corps of the Luft-  
waffe and had been committed as a physician near the channel coast in  
sea distress service. That is all I can tell you about him.

Q. We note on the next page, doctor, the first name is Anthony.

A. Yes.

Q. And thereunder, we go down to #7. That is your name.

A. Yes.

Q. We go down to #11 and we find the name Buechner.

A. Buechner, yes.

Q. Do you know that gentleman?

A. Yes.

Q. Was he the gentleman that worked with Professor Veltz?

A. I know of no such collaboration.

Q. Was he one of the lecturers at the Luftgau School?

A. At first, I never in my life heard about a Luftgau school.  
Secondly, I never heard that Buechner was ever a lecturer in any insti-  
tute of the Luftgau. There must be some misunderstanding.

Q. Do you recall, in Rascher's document to the Reichsfuehrer, which  
was Document 1502 PS in Document Book No. 2, where Rascher stated, "For  
the time being I have been assigned to Luftgau Commando No. 7, Munich,  
for a medical selection course"? Maybe I erroneously called that a  
school. I'm sorry. I ask you now, was Buechner one of the lecturers  
at this Luftgau Commando No. 7 Medical Selection Course?

A. I never heard anything about that. I really don't know.

Q. And then we go down to #22 and see the name Finke. Is that one  
and the same Finke as mentioned in the other documents here?

A. Yes, that probably is the case because, up to now, I have only  
heard of one Finke.

Q. Now, Doctor, when you heard these lectures, particularly the



lecture given by Holzloehner, I understand that it wasn't possible to ascertain that the work upon which his report was based was work on experimental subjects. Is that your position here?

A. I have stated in great detail that one had to deduce from this Holzloehner lecture that in his results we were concerned with conclusions derived from a combination of practical experiences with sea distress, experiments on human beings, and experiments on animals.

Q. I see. Well now, I want to recall the testimony of Professor Schroeder wherein he said, on page 3625 of the official transcript, that he based his statement solely on Holzloehner's report which was the only thing that interested him. In answer to a question by Mr. McHaney wherein Mr. McHaney asked, "I think you stated to your defense counsel that it was impossible for you to conclude from this report that experiments had been carried out, but rather you thought they were clinical observations made on people fished out of the North Sea. Is that right?" And I repeat Schroeder's answer: "Yes, I based my testimony solely on Holzloehner's report which was the only thing that interested me." Now, do you concur with Professor Schroeder that, after seeing the Holzloehner report, that you could only ascertain that the results thereof were obtained from practical experiences and not from experimentation?

A. Yes, I may remind you that the situation under which Professor Schroeder read the report and under which I just heard of it orally were entirely different. I knew beforehand, by virtue of my participation in Hinkle's and Rascher's conference, that these experiments were planned. Professor Schroeder, on the other hand, did not know that. He merely knew the fact that Holzloehner had gained experiences in practical sea distress service. In other words, our points of departure are entirely different.

Q. Well now, you testified here that you felt the reason why the witness Lutz was in a position to ascertain the method used by Holzloehner was because of his extensive knowledge of freezing problems and that other people, such as Schroeder and yourself, and, I suppose, any other



medical man not specializing in this field, would be unable to ascertain the same things that Lutz ascertained. Is that correct?

A. Yes, that is correct. I may point out to you once more that Professor Schroeder wasn't even present during that meeting, but only read the printed report about half a year later.

Q. Well, reading the printed report would be to his advantage in being able to ascertain the methods used in the experiments, wouldn't it? I would think that you could gather more from reading the report than from sitting down listening to an oral report, or would it be vice versa, Doctor?

A. I may draw your attention to the fact that on the 26th and 27th of October there was no written report available, but that there was only the oral report by Holzschner.

Q. How do you know that?

A. Because I heard the report. I listened to it. I have already said so.

Q. How do you know he didn't have the written one available?

A. At any rate, I didn't have a written report available. I never saw one except the one that was later printed.

Q. Let's go on, Doctor.

Now, as I understand it, you have stated here that the method of rapid re-warming was not new. Was nothing new. That, in fact, it was a very old method. Is that right?

A. No, you misunderstood me.

Q. Well, do you know, as a matter of fact, that the method of rapid re-warming is a very old method and that it was first worked out in 1880 by a Russian doctor named Leporsinsky?

A. Yes, that is true and it is included in this report. This method, as it frequently occurs not only in medicine, was entirely forgotten so that decades later nobody else thought about this quick re-warming method. We are here concerned with a re-discovery which so often occurs in human history.

Q. That's true. It may well have been a re-discovery, but it had been discovered in 1880 by Leporzinsky, had it not?

A. Yes, it says so somewhere here.

Q. Well now, Doctor Woltz here had admitted repeatedly that, in his own experimental work on animals, that, in addition to Leporzinsky's earlier experiences, the problem was fully settled and was ready to be applied to human beings, hasn't he, without further experimentation on human beings under artificial conditions?

A. I believe Professor Woltz said so here. What question do you wish me to answer now?

Q. Well, in view of Professor Woltz's testimony and in view of the fact that Leporzinsky had founded this method of re-warming - rapid re-warming - in 1880, wasn't it ready to be applied now for purposes of therapeutic trial on people actually exposed to shock from exposure to cold without any further experimentation on human beings?

A. I don't believe that any medical authority anywhere in the world would have been prepared to introduce Rascher's method of re-warming officially without first experimenting upon human beings. During the slow re-warming—

Q. (Interrupting) Just a moment, Doctor, you're trying to get away from me. Rascher's method? That was Holzloehner's, Finke's, and Rascher's method, wasn't it? It wasn't Rascher's alone. Rascher had an order to experiment with Holzloehner and Finke.

A. I don't know exactly what assignment Holzloehner had received from Hippke. I assumed that this was the main assignment.

Q. Well now, you have mentioned, in the course of your examination, that these experiments - these freezing experiments - were decidedly useful and you quoted Harper's Magazine wherein it said that Dr. Alexander had found the method of re-warming a useful one and reported it as such. However, Harper's didn't quote that passage correctly. But, nevertheless, it was Leporzinsky's method of rapid and intensive re-warming that was found in the Rascher experiments, wasn't it? It

Court No. 1  
27 May 47-A-16-5-EHM-Harrow (Ranier)

wasn't Welts's and Holsloekner's and Pascher's finding or discovery. It was nothing but a reassurance of Lepcsinaky's method, was it not?

Court 1

A. I cannot reply to that question because I neither concerned myself with freezing research generally, nor did I read the paper by Professor Lepozinski, and I don't know exactly what he suggested.

Q. You concerned yourself with it here for nearly a day on direct; since you exhibited such an exhaustive knowledge in the matter I think it necessary for you to take a stand here?

A. Only on the basis of the documents.

Q. Is it necessary to perform experiments on human beings to reassure the Lepozinsky method?

A. As I imagine the situation once more I could affirm the situation clearly.

Q. Well, now after hearing this report and the reassurance that the Luftwaffe do to apply that method? To be sure some 100 gentlemen, as set forth in this document listened to this report by Holzloehner, what did they do about it, did they use it?

A. Well, let me point out to you that during this meeting a number of researchers held lectures on the basis of a number of experiments and all arrived at the same result, which was finally confirmed by Professor Holzloehner. Professor Holzloehner's lecture was only the final confirmation, and I know that the Medical Inspectorate afterwards introduced quick rearming as the only decisive method of treatment.

Q. Well, now, Doctor, what is bothering me and bothering me terribly is the fact that extensive research was conducted at the Dachau Concentration Camp on rapid rearming, -- testimony here in this trial shows that many deaths occurred. There isn't one shred of evidence



Court 1

available in this Tribunal produced by the defendants that indicates to any degree that these methods as discovered by Holzloehner, Rascher and Finke were ever applied by the Luftwaffe or by the Army or by the Navy, yet you have taken the stand here and attempted to introduce Harper's Magazine to show that these experiments were justified and that we, as a matter of fact used them in the United States Navy; why didn't you use them in the German Army and Navy?

A. The method was used from 1942 on.

Q. Well, all that Schroeder could tell us about it was that someone in an air sea station in Greece requested a bathtub which as a matter of fact was never delivered, because of subsequent retreat from Greece, but he didn't tell us anything about the actual use of the method; there is no evidence here that you ever used the method; what was the reason for this exhaustive research if you never intended to use the method, and in fact never used the method, apparently?

A. We never tried to prove that. This is the first time that the Prosecution has raised the charge that this method was never applied.

Q. I haven't raised the charge, Doctor, I am merely seeking information from you, inasmuch as you have definitely taken up the time of this Tribunal to explain greatly the value of these experiments; now what was the value to the German Luftwaffe, to the German Army and the German Navy; you haven't been able to show us that?

A. I never tried to show that. I don't consider that relevant, I and my defense counsel. If I were to go into everything connected with the trial from a scientific

Court 1

point of view then the time I have used so far would be completely inadequate, but I am quite willing to bring a number of witnesses to prove that quick rearming was applied. I believe that will be quite easy to prove. As to the Professor Lepozinsky ---

Q. Now you are getting at it; you are coming along with me. Then the method was actually applied, the method of Lepozinsky was actually applied in the German Wehrmacht?

A. I said before I didn't know the Lepozinsky method. I never read his paper on the subject.

Q. Then the method rediscovered by Rascher, Holzloehner and Finks was actually used, and adopted by the German Wehrmacht, is that correct?

A. I am quite certain of it. I was never present myself, because I wasn't working specifically on these questions, but I believe I can find people who will be able to confirm that the method was actually used.

Q. Well, now, Doctor, in regard to the position that Schroeder was unable to ascertain from Holzloehner's report, that the results were secured from experimentation, I have a few questions to put to you; now, on the second page of Holzloehner's report, that is page 10 of the document itself, page 42 of the original, that is document No. 401, that will be found on page 66 of the English Document book III, in the second paragraph on that page, Holzloehner speaks of human curves, "human curves." It is possible, Doctor, to obtain curves which require special measurements from people floating in the sea; don't you think it would be a lot to actually obtain one good measurement under such circumstances?

A. Let me point out that these cooling curves vary

Court I

obviously refer to the animals. Professor Holzlochner writes: "In the case of water temperature under 15 degrees of interest to the Sea Distress Service, all reflect regulation appears only slightly in the usual test animals. The freezing curves to a great extent resemble the physical model which can only be compared with many reservations to human curves because of their different measurements and differing constant temperature."

This shows quite clearly that these curves were obtained from animals. These are the experiments that Professor Holzlochner mentioned on the previous page, and now some other results and constant figures of normal body temperature, and freezing point of fat, and so forth, that for these reasons the experiments on animals and the physical context cannot be applied to human beings.

Q. Now, this report of Dr. Holzlochner refers to statistics found on rescued persons from the sea, refers to statistics found from experimentation on animals and the report is more or less a comparison, is it not, and that is I assume what Professor Schroeder thought when he read this report, that the mention regarding human beings referred to those rescued at sea, and not to actual experimental subjects, and herein he refers to human curves, and data concerning human curves, unless it was on a human being. I would think that would be elementary, wouldn't it, Doctor?

A. That is not elementary, and it is not true, because such cooling curves can, of course, be obtained from blood, it can be determined how long a ship wrecked person has been in the water, and then I can enter this time on a curve and the temperature which I have obtained from the

Court 1

boat. These were covered boats with cabins, and I could measure the temperature. I could correlate the time with the temperature and after I do this in 10 or 20 cases I obtain a curve, but what Professor Holzloshner says here clearly refers to animals' experiments.

Q. Let's refer to the next paragraph; I wonder if this refers to animals' experiments. The next paragraph states:

Q. The blood count, as well as the changes in the blood analysis were also tested in such severe freezing." Is that referring to animals, to the dogs and cats he mentioned? That has nothing to do with the test on human beings which he refers to later in the report?

a. May I read the context?

Q. Yes, that is paragraph 4 of page 10 of page 42 of the original?



A. Yes, I would like to read the context. It reads:  
"The blood count, as well as the changes in the blood analysis were also tested in such severe freezing. These investigations yielded few new results and they corresponded to the results of slow freezing or the results determined from local freezing. Among these changes, the considerable rise in viscosity in dogs and cats are mentioned, which makes it obvious that they were animal experiments.

A. Alright, let us refer to the next page. This will be on page 11, which is page 88 of the document book in English. Refer to the third paragraph from the top, pardon me, Doctor, we will back up to the second paragraph which says as follows:

"It has now been possible to conduct a series of investigations of human beings who were rescued after having been in cold water for a long time. The relevant statements we owe to the cooperation of Stabsarzt Dr. Rascher and Stabsarzt Dr. Finke. They refer to a stay in water of 2 to 12 degrees."

There is no question but that the relating facts in this report were facts deduced from a series of investigations on human beings who were rescued after being in cold water for a long time; is that correct?

A. Yes, that is true. I heard later that Dr. Finke was one of Holzloehner's assistants at the sea rescue station in Breen. I am convinced that most of the findings were based on actual experience in practice in rescue from the sea.

A. Let us examine a few of these pages, Doctor, the next paragraph Holzloehner says:

"The rapidity with which numbness occurs is remarkable. It was determined that already 5 to 10 minutes after fall-

ing in, an advancing rigor of the skeletal muscles sets in, which renders the movement of the arms especially increasingly difficult. This affects respiration also: inspiration is deepened and expiration is delayed."

Do you mean to say now that during rescue operations one would actually watch a man fall into the water, then sit by and do nothing for five or ten minutes until he becomes rigid, until his respiration slows.

A. No, but one does pull a man out of the water with rigor of the muscles and slow breathing. Such experiences have occurred everywhere. In my direct examination I spoke of this same experience of rigor within five or ten minutes by Captain Wizer of the American service. The same experience has been had by every rescue service in the world.

Q. Now further down in the paragraph we find the words and this is the sentence after the one I just read-- we find the words. "The rigor is a conditional reflex and not, as many persons apparently think, a contraction of the corresponding muscles due to cold. It ceases spontaneously at death."

Now, do you mean to imply seriously, Doctor, that you as a member of the armed forces would expect one of your medical officers to treat members of the armed forces that way or that they would sit there and let the ill man die in the water so they could take measurements, make observations and investigations?

A. These sentences do not indicate that either. I should like to refer to the first paragraph of Hiltzlochner's lecture, which reads:

"Observations by the Sea Distress Service have shown that the reduction in body temperature proceeds very rapidly

in the case of persons in distress at sea subjected to water temperature below 15 degrees. As unconsciousness or even death can occur already after half an hour, the possibility of using plans and boats is greatly decreased. Moreover, observations of mass catastrophes (the sinking of transports or war ships) revealed that even a rather long time after the rescue, danger to life still exists. Thus, sudden deaths were observed 20 minutes to 1½ hours after rescue, which until now have remained unexplained. (Collapse after rescue.)"

Those are the deaths which our Doctors observed. They observed that when death occurred, the rigor suddenly ceased. I myself never observed that, I was never present on such occasions.

Q. Let us go to the next paragraph, Doctor, here is the most preposterous and obvious passage. This is the beginning of the next paragraph, No. 43 of the original, page 11 of the document and page 89 of the document book. This states as follows:

"With a drop of the rectal temperature to 31 degrees, a clouding of consciousness occurs, which passes to a deep cold-induced anesthesia if the rectal temperature reaches below 30 degrees."

Now, Doctor, to have made this observation it would have been next to impossible during an air sea rescue operation; wouldn't it?

A. No, not at all.

Q. Well now in the first place to measure the rectal temperature of a man bobbing in the high seas would be quite a job, wouldn't it?

A. No, not at all. That was something that was done very frequently.

Q. What did you do, Doctor? Did you just go by the man floating in the sea in a rescue boat, come up to him and instead of throwing him a life line, throw him a thermometer and ask him to place it in his rectum?

A. No, but the temperature was taken after the people were in the life boat. I have already said that the rescue boats were big motor boats with covered cabins.

Q. Now, Doctor, just a moment, just a moment. In taking the man in the life boat to perform this; what did you do after this, put him in the life boat and then throw him back in the water?

A. That is an interpretation of yours, which does not correspond to real conditions. What we have here is that when the temperature drops to below 30 degrees there can be a cold anesthetic and one need not be an expert on cold to know this. Any doctor will recognize, that there are two possible explanations. One is that there were observations on various people, it does not say that those observations were all made on the same man. Secondly, an even more possible solution is that when one person was rescued and temperature of 30 degrees was taken and his temperature continued to fall while he was in the boat, that is the new fact which has been discussed by American as well as German experts during this war and that unless one applies warmth to the rescued people immediately but simply covers him, as is done in the life boat, the temperature continues to fall. One has no need to put the person back in the ice water.

Q. I am glad that you have a definite opinion on this, Doctor. Let us look further on down on this page, which will be on the next page of the document book, page 43. This is the top paragraph. The next sentence



therein, it states:

"It is certain that the rapidity of the drop of temperature increases when the neck and occiput are washed by water." Do you see it?

A. Yes, I see it. -

Q. It would take pretty careful observations from a boat, a rescue boat, to find that out on a man floating in the sea, but it would be pretty easy to do it on a man floating in a tub at the experimental station in Dackow; would it not? Wouldn't you have to follow him around in the boat pretty much to see how much of his neck and occiput was washed by the water?

A. This observations means that in the German Luftwaffe, as well as in the German Navy, there were various models of life preservers. One model was constructed in such a way that the person had the back of his head and the back of his neck out of the water, that is the back of his neck was protected. The other model was constructed in such a way that the back of the neck was not protected. Nothing was more simple to see what happened to the people wearing one model compared to people wearing the other model.

Besides, I can point out that Dr. Rescher, after Wilzloehner's lecture, made a remark in that direction saying that experiments had been carried out on this subject, but according to what Dr. Rescher said at that time and what he wrote, they were completely harmless. He writes that the cooling of the back of the neck alone, even over a period of hours, causes only a slight change of body temperature up to 1 degree Celsius. According to what Rescher reported, it was a very slight result for his experiment and one must assume that Wilzloehner's remarks did refer to his actual experience in sea-rescue service.

Q. Well, let us go to the passage on page 44 of the original document, page 14 of the translation. This is on page 93 of the document book. You note here the following language in the first paragraph on that page. The sentence, which is seven lines down from the top, reads as follows:

"The good results with quick warming obtained in experiments with animals encouraged a corresponding procedure with human beings. These experiments showed that baths with a water temperature of 40 degrees not only accelerate the return to normal temperature and absorb the sudden dangerous falls of temperature after rescue, but may also be of life-saving effect should the heartbeats begin to stop.

Now in this pointed discussion, the author was even far more outspoken, was he not, which I understand was an abbreviated and expurgated edition of what he actually said at the meeting; is that right? What did he say at the meeting to elaborate on this point in the corresponding procedure on human beings to be used, inasmuch as they found such good results on their work on animals?

A. I believe that is best shown by the fact that Mr. Rascher had an order from Himmler to present the results of the experiment as a top secret matter. What Holzlochner said about the experiments as I said in my direct examination, what I took as referring to experiments, was this paragraph here where it said expressly that no danger was ever observed to persons treated in this way. As for the other experiments concerning which Rascher sent a report to Himmler and which report to Himmler is signed by Holzlochner and Rascher and Finke, there was said nothing at Nurnberg, nor did Holzlochner, Finke or Rascher say anything about it. Not only I but ninety other people heard it and most of the others are at liberty today and some of them have very high positions.

Q. Well now let us turn to another section of this report, which is on page 43 of the original, page 12 of the -- this will be found on page 90 of the document book 3, the passage contained in the second paragraph from the top, five lines down, beginning in the middle of the paragraph and the middle of the sentence line, wherein I will quote, wherefrom I will quote:

"Noticeable and important is a great increase in viscosity of up to 7.2. This increase appears very early, that is, already with a body temperature of 35 degrees. These increases are greater than those found in animal experiments. With dogs for instance, an increase of more than 6.2 was never observed under corresponding circumstances."

Now, Dr. Becker-Fleyseng, in order to determine how high the viscosity of the blood can be, wouldn't it take a considerable amount of measuring?

A. No, I don't know how Holzlochner did it.

Q. Well now, doctor, that would test over your ingenuity, you are a pretty capable fellow, to take one sample large enough to determine the viscosity of the blood from a man floating in the ocean next to a boat, let alone sufficient for measurements --

A. The measurements would not have to be made on a man swimming beside the boat. Either a small amount of blood is taken from a man who has been brought into the boat or else the blood

Q. Well you do not accomplish this from your experiment if you do not accomplish what you are looking for, do you? You did not find out the necessary information from that manner, did you, if you just pulled him in, you can't be certain how it reacts, you have to determine how an animal rescued would react, in comparison to the reaction of a human being. You have to have some sort of comparison. Isn't that what Holzlochner, Finke and Rascher did at Dachau?

A. I never heard anything about that, but the purpose of Holzlochner's work at Dachau, let me point out the next sentence which reads: "With dogs, for instance, an increase of more than 6.2 was never observed under corresponding circumstances." I am convinced that Mr. Holzlochner made his careful tests with animals and that with human beings he carried out merely a few practical tests and I am convinced that the measurement of viscosity is very simple even in practice. In my direct examination I discussed this point. I referred to the report of Captain or Major Mazer, who performed almost exactly the same tests in the American sea rescue service, blood concentration tests, and in effect found out exactly the same thing.

Q. Well, doctor, it's turn to another section here, this is page 15 of the report under discussion, note the name Rascher. Here Rascher states in this paragraph, which is page 93 of the document book, and I quote; the sentence beginning with: "After taking alcohol, body temperature decreases at a quicker pace." Does the interpreter have that? "After taking dextropan the decrease is slower than with the experiments in both sober and alcoholic condition. Hit infusions, (1% dextro-solution, physiolog. table salt-solution, tutofusin, physiolog. Table salt solution with pancortex) were successful only for a time." Now from reading that doctor, do you mean to say that you would issue alcohol to airmen just on the chance they



might fall in the sea so that you could make comparisons with other  
cirmen who hadn't taken alcohol?

A. I should like to point out something and I am quite willing  
to bring proof of this too. In the emergency equipment of the Luft-  
waffe, goodwhiskey.

Q. Then when you pulled a man in from the water did you ask each  
man if he had taken a drink yet?

A. Yes, in many cases we would ask that because the doctors held the  
point of view that alcohol is harmful in such cases. From 1943 approx-  
imately on the alcohol was removed from the emergency equipment  
against the resistance of non-medical men. I am quite willing to  
bring proof of this too.

Q. Now assume for a moment, just assume for the moment hypoth-  
etically you were working with Reacher, Holzlochner and Finke, and  
this report was the results of your work, would you be willing to  
assume full responsibility for everything contained in Holzlochner's  
report as being completely on the level, nothing criminal about it.  
I think you are being a bit naive, doctor, here is Lutz who came  
here and testified it was obvious just what the report meant.

DR. TITZ: Mr. President, in the direct examination Mr. Hardy  
reproached me with spending too much time on a subject. I went into  
too much detail with these questions, he said. Now he is going into  
them again. I have not objected but now Mr. Hardy comes with a  
completely hypothetical question. He, as well as the Tribunal and the  
defendant know that this is not true. I believe in answering this  
question "what would have happened if" -- is a purely hypoth-  
etical question and will not get us anywhere. I should like to  
object to this question as completely irrelevant.

MR. HARDY: Having learned a great deal during the course of this  
trial, I have just finished a subject and will go on to something  
else.

THE PRESIDENT: Please proceed.

MR. HARDY:

Q. Doctor, let's turn to page 127 of the document book, which is Exhibit 106, Document No. 268. This is a document which originated from Anthony's office, which is signed by Professor Hippke. Somebody wrote that, somebody in Anthony's office must have written it or it wouldn't have Anthony's code letter on it, because as you say Hippke did most of his work without referring to Anthony if he chose to do it. Now this letter reads as follows:

A. I am sorry. I never said that. I said that Hippke sometimes failed to consult the referat but I never said in most of his work.

Q. Do you think now, in as much as the code letters appear, that in connection with this document Hippke referred it to the referat?

A. I not only believe Hippke referred the letter to the referat but I think this letter was worked on in the referat. I myself did not work on it. I saw it here for the first time.

Q. Let's read it, Doctor, quote:

"The experiments conducted in Dachau concerning protective measures against the effects of freezing on the human body by immersion in cold water have led to results of practical use. They were conducted by Stabsarzt of the Luftwaffe Professor Dr. Holzschner, Dr. Fiske and Dr. Rascher in cooperation with the SS, and are now finished. The results was reported upon by those who worked on them during a conference on medical problems arising from distress at sea and winter hardships on 26 and 27 October 1942 at Nurnberg. The detailed report on the conference is at present in state of preparation.

"I think you most gratefully for the great assistance that cooperation of the SS has meant for us in conducting the experiments, and beg you to express our thanks too, to the commander of the Dachau camp.

Heil Hitler

Prof. Dr. Hippke."

Now whatever impression was given to the listeners at the Nurnberg conference after hearing the report, it is a fact, is it not, that the reports were based on experiments upon human beings at the Dachau concentration camp and here is the "Thank you" note from Hippke?

A. In my direct examination I have already said that I held the opinion from the very beginning that Holzlocher's report was just a compilation and that in the course of the compilation he included the results of the Dachau experiments in his report. I never doubted it.

Q. Well, Dr. Lutz had no difficulty in ascertaining that either, did he?

A Let me refer to three things: first of all Lutz himself worked on the cold question; second he worked in the very institute where considerable work was done on the same question; third, according to what he said, he knew Mr. Rascher much better than I did. If he read something else from Holzlochner's report and Rascher's remark than I did I am not surprised.

Q Of course, you can recall that Dr. Lutz maintained in the course of his examination here that an average medical man could have ascertained the same thing, didn't he say that?

A I don't understand your question.

Q Didn't Dr. Lutz say here that any physician or medical man, regardless of his specialty, that is, he didn't necessarily have to be a specialist in shock from exposure to cold, could have been any man, if he had slight knowledge of medicine could ascertain from the reports that were heard at the October meeting that the experiments were made on human beings and were not just air rescue practical tests?

A No, Dr. Lutz did not say that. In the course of my direct examination I repeated exactly what Lutz said. He said he believed it was clear to most people that is to say, at least that it was not quite clearly expressed and that was his own personal opinion. What he realized might not apply to other people.

Q Let us turn to the yellow jaundice complex, doctor. This is Document NO-137 which is on page 6 of Document Book B.

A Yes, I have it.

Q Well, now we note here under 1 - the subject is yellow fever vaccines and we find there three references to the code letters of the office of Anthony. Is that correct? We see this #55 on three occasions there.

A I am sorry, under yellow fever vaccine, is that what you mean?

Q Under prabic number 1 -

A Yes, you only see two numbers which do refer to referat. The first says 55, etc. 2 II B and then 55/14 - the rest is missing. I don't know



what the original says.

Q Those references, be there one, two, or three - refer to Anthony's office, is that right? It is very simple, answer it. Do they or don't they?

A If I have to say yes or no I will say no. They mean merely that there is a research assignment so that if the files are looked for in the office of the Medical Inspectorate the registry people know where to look - under file #55.

Q Let's straighten this out. What is #55? What does it mean?

A In the correspondence of the German Wehrmacht there was a so-called Wehrmacht file plan.

Q Let's forget that a moment. What do numbers 55 mean. You can answer in three words. You have answered it in direct examination. I want to hear it again. I don't remember what you said. Doesn't 55 2 II B refer to the office of Anthony?

A No. This No. 55 you will find in correspondence of the entire Luftwaffe and the entire German Wehrmacht where Anthony means nothing at all.....

Q 2 II B refers to Anthony's office, doesn't it?

DR. TIPPE: Mr. President, I am afraid I must object to this type of questioning by Mr. Hardy. He has interrupted the witness three times now. If Mr. Hardy will let Doctor Becker-Freysene explain everything will be clear. I don't want to attack Mr. Hardy personally by any means but I think this continual interruption does not serve the cause.

R. HARDY: Since the objection has been raised, Your Honors, I will instruct the Tribunal to instruct the witness to answer my question what does 2 II B mean? He has testified on direct examination that they mean Anthony's office. He is here under oath and now he says they do not mean Anthony's office and I wish to clear up the confusion.

THE PRESIDENT: Counsel for Prosecution asked the witness what the number 55 meant and interrupted the witness before he answered by asking what the letters 2 II B mean. Will counsel again propound his

question to the witness?

BY MR. HARDY:

Q What is the code initial 2 II B refer to, doctor?

A That is the registration abbreviation for the referat Aviation Medicine.

Q And at that time 7 October 1943 you were assistant referent?

A Yes.

Q And #1 in this document refers to yellow fever vaccine?

A Yes.

Q And "2" in this document refers to spotted fever vaccine?

A Yes.

Q And the code letters 2 II B appear there?

A Yes, that is true.

Q And so on down through the document?

A Yes, that is true.

Q That is all I have in that complex, Your Honor. However, I have one request to make of the Tribunal before we adjourn today. Dr. Tipp has requested that he be permitted to see the defendant Becker-Freysong, this evening. I have agreed that he could see Becker-Freysong, of course adhering to legal ethics and not making any reference to the questions being considered in the course of this cross-examination. Dr. Steinbauer has a problem to take up with the Tribunal before adjournment.

DR. STEINBAUER (For the Defendant Beiglboeck): Mr. President, the court has approved for me a witness named Dr. Rolf Jaeger. This witness has been brought to Nurnberg. This morning the General Secretary's office, Mr. Martens, told me that Dr. Jaeger is the head of a British Hospital in Graz and the British Military Government in Austria have urgently asked to have him returned. He has to be taken back Thursday morning and I should like permission to call this witness tomorrow when the examination of Becker-Freysong is concluded. Mr. Hardy, to whom I have told this, thought I should

submit an affidavit. I would be very very glad to fulfill Mr. Hardy's wish but could not do so; I merely promise that I will be very brief. If he will do the same thing we will gain what we would otherwise have lost.

THE PRESIDENT: Has counsel for Prosecution any objection to calling this witness at the closing of the testimony of the defendant Becker-Freysong?

R. HARDY: On the statement of defense counsel, Your Honor, it appears to be that in as much as this witness will only testify as to the rank and organization within which the defendant Beilboeck was stationed or where his orders came from I don't think it necessary to take up the time of the Tribunal. I understand the witness has nothing to add concerning the son water experiments of any of the plans or enterprises connected therewith. He will merely testify as to superior orders of Beilboeck and I feel for my part that an affidavit could accomplish that object without taking up the time of the Tribunal.

THE PRESIDENT: I understand from defense counsel that defense counsel desires to put the witness on the stand and not file an affidavit of the witness, is that correct?

A Yes.

THE PRESIDENT: The witness will be heard after the close of the testimony of Defendant Becker-Freysong tomorrow.

The Tribunal will be in recess until 9:30 tomorrow morning.

THE CLERK: The Tribunal is now in recess until 9:30 tomorrow morning.

Official Transcript of the American Military  
Tribunal in the matter of the United States  
of America against Karl Brandt, et al,  
defendants, sitting at Nurnberg, Germany,  
on 28 May 1947, 0930, Justice Beale presiding.

THE MARSHAL: Persons in the courtroom will please find their  
seats.

The Honorable, the Judges of Military Tribunal I.

Military Tribunal I is now in session. God save the United States  
of America and this honorable Tribunal.

There will be order in the courtroom.

THE PRESIDENT: Mr. Marshal, you ascertain if the defendants are  
present in the court.

THE MARSHAL: May it please your Honor, all defendants are present  
in the court.

THE PRESIDENT: The Secretary-General will note for the record the  
presence of all the defendants in court.

Counsel may proceed.

HERMANN BECKER-FREYSENG - Rejoined

CROSS EXAMINATION (Continued)

BY MR. HARDY:

Q. May it please the Tribunal. Dr. Becker-Freyseeng, yesterday,  
during the course of cross examination, I asked you whether or not  
you had ever performed experiments in high-altitude research above  
12,000 meters and I recall that you answered that you had done that  
type of research yourself up to 15,000 meters.

A. I said that I performed a very few, perhaps one or two exper-  
iments on myself. Generally, however, my work was up to 12,000 meters.  
That was the case in 1945 and 1946.

Q. Now, this work wherein you went to 15,000 meters, was that  
also in 1945 and '46?

A. No, that was before, that was during the war.

Q. When?



A. There were some orientation experiments which I performed, perhaps '42 of '43 only to learn about these things by myself. There was not any extensive research, just a few experiments for my own orientation.

Q. Had anyone else to your knowledge performed or experimented above 12,500 at that time or prior to 1942?

A. Yes, quite a few people.

Q. Who?

A. Dr. Ulrich Luft and Dr. Hans Georg Klamann, at the Aviation Research Medical Institute, and Dr. Benzinger and his people in Radlin. The highest altitude reached that I know of was a little over 19,000 meters. This was reached by Hans Arich Helbach in a self experiment. He is now living in Friesen in the Chiemsee. He worked for Dr. Benzinger.

Q. Do you know how many times experiments have been conducted where-in altitudes over 15,000 meters were reached? Approximately, doctor. Just a rough estimate.

A. Certainly 50 to 60 experiments.

Q. Over 15,000?

A. Yes, over 15,000 meters.

Q. Was all that work conducted prior to the experiments in Dachau, in other words, prior to February 1942?

A. Part was before the Dachau experiments and part was after the Dachau experiments.

Q. Could you have any way of telling us just how much was done before the Dachau experiments in this particular field, in altitudes higher than 15,000 meters?

A. Unfortunately, I am in no position to do so, but I can tell you who can give you very exact information. These men are all in the American service -- Dr. Hans Georg Klamann, Dr. Luft and Dr. Benzinger. I myself did not carry out this specific type of work myself, and

I did not work on it in the report. Unfortunately, I am unable to answer your question. I can only refer you to the correct source.

Q. Well, now, in these experiments that were conducted in the altitudes higher than 15,000 meters, what field of research was that concerned with? Was that with explosive decompression, slow descent, or what phase of high-altitude research, do you know?

A. Yes, part of them explosive decompression experiments and part of them experiments such as were described here, experiments on rescue from high altitude.

Q. Now these experiments that we are referring to, those concerned with altitudes above 15,000 meters, were the results of those experiments published so that all students of aviation medicine could study them?

A. Yes, quite a number of results of experiments are available which I myself saw in the Aeromedical Center in Heidelberg. Some of them were published in the Journal for Aviation Medicine, and some of them were just official reports.

JUDGE SERRING: Mr. Hardy, will you ascertain from the witness when those reports were published?

BY MR. HARDY:

Q. Witness, will you kindly tell the Tribunal when the reports concerning the experiments above 15,000 meters, which took place prior to 1942, February 1942, when and where were they published?

A. I cannot say exactly. They were published in 1941-1942, approximately, but I cannot give an exact date. I had nothing to do with the publication of these reports but the reports are available. They are at the Aero Medical Center in Heidelberg. The date can be checked.

Q. Then I presume that the experiments that were conducted after February 1942 in the same field were also published.

A. Yes, I am sure they were published, too.

Q. And was the work conducted by yourself and Ruff and your colleagues at the Aero Medical Center at Heidelberg after the cessation of hostilities? Were they published in this work or were they merely put in United States Army publications?

A. A very small portion had a report published. At least, Dr. Gaver informed me to that effect, but the rest of the experiments were interrupted before they were completed so we had not come to any final conclusions that could have been published but one small paper is said to have been published.

BY JUDGE SERRING:

Q. Witness, who had access to those early reports that you say were published concerning experiments prior to 1942?

A. To you mean, Your Honor, now or to whom they were available at that time?

Q. To whom they were available immediately after the date of publication.

A. Primarily, aviation medicine institutes and research workers; also the consequences resulting, for technique, were available to the technical agencies.

Q. Then they would have been available to the defendants Ruff and Rosenberg?

A. I am sure they read the reports which were published previously. I am not able to say exactly which reports were published before the Dachau experiments and which were published after the Dachau experiments.

Q. But you feel reasonably sure that such reports as were published before the Dachau experiments would have been available to the defendants Ruff and Rosenberg, and that as experts in that field the assumption is very strong that they would have read them?

A. I assume that it is extremely likely that the reports that were published before the Dachau experiments were sent to Dr. Ruff's institute.  
BY (B. HARDY):

Q. Dr. Becker-Treyseng, I wish to now turn to the complex "Typhus" in Document Book No. 12 on page 74 of the English document number WC-306, Prosecution Exhibit No. 206.

A. I have the document.

Q. You recall in this document Professor Rose wrote to Haagen and referred to the production of spotted fever vaccine for all armed forces in the eastern area. He stated he had not heard anything yet from Department No. 1 and that it will take some time for EF to produce his new research order inasmuch as Anthony is on a duty trip -- and do I understand you clearly that you had no knowledge whatsoever of any of these activities concerning typhus research or the production of typhus vaccines?

A. Yes, you understood me correctly.

Q. Now, in this letter we note the code or file numbers 2F. Doctor, I want to clarify a point at this time. First of all, in the Referat for aviation medicine you have had the code or file numbers 2III. That was the first one. Wasn't that the first one that they had in the Referat for aviation medicine?

A. No, that was the registration abbreviation. The first note was 55 for the research assignments. These are two quite different things.



Q. You know very well what I am referring to. You have tried to quibble me on this several times. Tell me just what the Roman numeral means. What does it mean? Is it the reference number?

A. The registry number for the Referat for aviation medicine.

Q. I won't make the error again. Could you tell me - ZIE - what that registry number means, when that came into existence in the Referat for aviation medicine?

A. I cannot tell you. In August 1941, when I was transferred to the Referat for aviation medicine, the Referat already had this number. I don't know when it started. I never took any interest in that. I presume in 1940 or 1941. I don't know. Perhaps already before the war. I really don't know.

Q. When did the registry number 2F come into existence?

A. According to the documents which you have submitted here it must have been in June 1943. There are some among the documents dated during this month which still have the old number and some which have the new number. I assume in the course of this month of June 1943 the change took place.

Q. Then the numbers would have overlapped. Is that true - the use of the numbers?

A. Yes, they no doubt overlapped in a few letters.

Q. When did ZIIA come into existence?

A. ZIIA was introduced as of the first of April 1944 as deadline.

Q. And I presume that the registry number 2F and the registry number ZIIA would have overlapped during that period of April and May. You may have well used both numbers.

A. It is quite possible, yes. I have not seen any such document here but it is possible. I don't know.

Q. Will you turn to Document NO-131 which you will find on page 98 of Document Book No. 12.

A. Yes, I have it.

Q. Now, this document -- do you have the German copy that has the

code designation on the top of the document, Doctor?

A. Yes, 55, 211A.

Q. Would you kindly read that slowly so the Tribunal may insert the code designation on the copy of their document inasmuch as the English copy does not have the code numbers set forth. It merely has the parentheses "code designation". When they translated the letter, they did not put down the numbers, so would you kindly read that code designation so the Tribunal may insert them in their document.

A. It reads, "High Command of the Luftwaffe"; next line "Chief of the Medical Service"; next line "File note 55/6028/44, Secret, (211A)".

Q. Now, that code designation with the registry number 2A refers to the Referat for aviation medicine, does it not?

A. Yes.

Q. The date of this letter was 29 August 1944.

A. Yes.

Q. At that time you were Referent for Aviation Medicine.

A. Yes, that is true.

Q. Now, as I understand in the course of your direct examination, you admit knowledge of this letter which you state that you can only recollect reading remembering the first paragraph therein. Is that correct?

A. I worked on only the first paragraph of this letter in my Referat and dictated it to my typist.

Q. Does the Secretary General have the original copy of Document NO-131? Would you kindly bring it in please?

A. Now, this first paragraph that you said that you drew reads as follows: "The research dealing with the dry spotted fever vaccine from vitelline egg cultures is to be continued. Therefore the 4,000 RM requested for the research fund are being allocated at your disposal."

Q. Would you kindly explain to the Tribunal just what was said by that paragraph?

A. This paragraph merely means that the assignment earlier given to Hagen to develop a method for producing the vaccine is to receive further approval and it informs Hagen that in 1944 he will again receive the sum of 4000 marks which he requested.

Q. Now this is written by you when you were referent?

A. Yes, that is what we worked out as a referent.

Q. Is typical of the work which the referat for Aviation Medicine did in non-aviation assignments.

Q. Well, now how did you happen to know about Hagen dealing with dry spotted vaccine?

A. I knew that from the research assignments which had been issued to Hagen. In this case probably Mr. Hagen said the subsidy which he obtained in 1943 was ending. He, therefore, requested that the assignment be extended and that his subsidy also be extended. This letter came to the office. Probably the Department Chief sent the letter to the Hygiene referent. He either made a notation of the letter or wrote a memorandum on it saying that Hagen's work was desired by the Hygiene referent. Then the letter would be sent back to the Department Chief

and made a notation "research assignment can be extended" and sent it to my referat. I went with this letter to the Finance Referat and found out whether there was enough money available, to see whether all conditions could be fulfilled for giving him 4000 marks. And, if the Hygiene referent and the Finance referent had no objection I probably dictated this to my secretary and submitted it to my Department Chief.

Q. Well, now were you authorizing expenditure of 4000 RM.

A. No, I said already yesterday....

Q. You wrote this paragraph?

A. I wrote this, dictated it for my Department Chief but the authority for extending the 4000 marks belonged to the man who signed the letter, and that was the Department Chief.

Q. Yes, but no less a man than Professor Senfelder tells me that you had power of attorney to pay out funds for experimental purposes and this seems to be rather consistent with this statement.

A. Yesterday I said that this must be some misunderstanding which can be very easily cleared up. Neither for research assignments or for any other purpose did I pay or approve of 5 pfennigs. Not even my department chief had the power to do that. The authority lay with the Chief of Staff. When it was now cases it was the Chief of the Medical Services himself. That is something clear, it can be proved any time.

Q. Well, doctor, when you issued or when you approved from me, that is the wrong word, too. When you suggested that 4000 RM be set aside for Stogen's work what did you do to investigate the necessity of the continuation of this



in order to determine the efforts were being used for the benefit of the Luftwaffe?

A. What I did was very simple. I based my work on the judgment of the Hygiene referent who had to pass judgment on it. I already said such an assignment which did not affect aviation medical, accordingly the referent who knew something about the field was competent.

Q. Now, where you use the term "research fund", are you referring to "research fund of the RLM"? What are you referring to by use of the term "research fund" in the first paragraph?

A. So, that refers to the money which the offices of the chief of the medical service had available specifically for research purposes. As in every other office there was a budget where the money was listed according to its purpose - for construction, for purchase of equipment, and also for research. Not I, because I had nothing to do with finance but the Budget referent knew about these things. A research fund of the Aviation Ministry did not exist in that general sense.

Q. Well, this coordination of this research fund within the Inspectorate, bearing in mind, of course, that after you took over as referent in the referat for Aviation Medicine all matters for research passed through your office - at least for forward to other referents, which was the Dr. Schröder's procedure. Now you coordinated the expenditure of the research funds; somebody had to coordinate that as to determine whether it would allow 4000 marks to Hagen, 5000 to Hirt, 6000 to some other person, 10000 to Allersdorf, and so on. Now, who coordinated the allocation of research funds?

A. First of all, let me point out that Professor Hirt

never received any subsidy at all.

Q. Excuse me. Say John Doe in place of Professor Kirt. Now, answer my question.

A. Very well. This coordination of the money was up to the referent for the budget which was responsible for the money.

Q. Just a minute. The Referent for the Budget didn't know anything about these research problems. Only one man had the over-all picture-that was Becker-Freysang the referent in the referat for Aviation medicine. How did the finance man know whether it would be a worthy cause to give \$4000 to Amgen.

A. I thought I had already explained that. I didn't want to repeat it. I said when such research assignment and such a research subsidy was issued I got in touch with the Budget referent if it was an aviation medical assignment and I gave him the necessary information. If it was in some other field either the other referent went with me or I got a written note from him so that the Budget referent could be convinced that the use of this money was sensible. Besides any approval of an expenditure had to be submitted finally to the Chief of the Medical Service himself and he signed for this expenditure.

Q. Tell me did you consult with before you wrote the first paragraph of this letter?

A. The budget referent - that was Oberfeldintendant Ventel.

Q. Did you consult with the referent for Hygiene?

A. In this specific case I cannot say whether I consulted with him orally or whether in documents which were given to me there was a written note from the Hygiene referent. That might have been either way.

Q. In any event you suggested that 4000 RM be placed at the disposal of Haagen and your suggestion was made to the Budget referent?

A. On behalf of my department chief I worked on the suggestion which came from Haagen himself and I discussed the problem with the Budget referent.

Q. I will ask you again: Who was the coordinator of medical funds? It wasn't Dr. Becker-Freyseng, was it?

A. You really overestimate me. I was referent. Of course, I had part in the coordination of this money, not only I but various other people had part in the coordination of this money, not only I but various other people had a bearing to say about it and the final word was up to Schroeder the Chief of the medical service or the Chief of Staff.

Q. You said he would take your word for it. He left these matters up to you.

DR. TIPS: Mr. President, I must object against this type of questioning. For the fourth or fifth time Mr. Herdy is telling Becker-Freyseng that Mr. Schroeder said that Becker-Freyseng was responsible for distributing this money. I think Mr. Herdy will grant that I know the documents and that I know very well what Mr. Schroeder has said. Neither in the documents nor in the testimony of Schroeder have I been able to ascertain when Mr. Schroeder said this. I would like Mr. Herdy to tell us when and where and to whom Schroeder made this statement. In the cross examination of Mr. Schroeder, as far as I am informed, this point was not brought up.

THE PRESIDENT: This is cross examination. Objection is overruled.

BY MR. HADY:

Q Now, let's turn to the third paragraph in this letter, Doctor, wherein it states:

"Please advise whether it may be assumed that the spotted fever epidemic prevailing at Matzweiler at present is connected with the vaccine research."

Do you have any knowledge of that particular instance?

A Yes, I know now that in 1944 there actually was an epidemic in Matzweiler.

Q When did you first learn of that?

A Here, at the beginning of the trial.

Q You never heard of it before that time?

A At least I didn't remember it. I never had anything to do with epidemic reports.

Q Well now, was it customary for a letter to be written, using your registration number or registry number, and prepared for the signature of the Chief of Staff Kant by an office other than your office?

A In my direct examination I said that this possibility did exist. Normally, if I had been there and had known about this letter, it would have said at the top at the left "2 II A/2 I B". That often happened that a letter came from two different referats and had two numbers, but since I was not there during these days that was unfortunately omitted.

Q Well, was it customary for the Chief of Staff Kant to decide that he was going to write a letter to Professor Hagen and then ask you to write one paragraph and ask another referent to write another paragraph and then only give you a copy of what you had written and take a pair of scissors and cut off the other paragraphs so that you couldn't read them?

A It was customary for the department chief or the chief of staff to change letters which he obtained from different referents and sometimes to make one letter out of two that were addressed to the same man. Besides,



I did not receive a carbon copy in my referat. This was sent to the Registry where it was filed and I never saw it again. Even if I had seen the carbon copy later -- which might even be possible -- then the establishment of a vaccine manufacturing plant and an inquiry about an epidemic would not have interested me, because I never had anything to do with such matters.

Q Wouldn't the fourth paragraph have interested you, which states:

"The report of 21 June 1944, in which the investigations at Natzweiler are mentioned, should have been sent as secret."

Secret?

A I happened here, during this trial, to learn the explanation for this final paragraph which I could not have understood earlier. Professor Rose told me that all the typhus reports had to be sent as secret in the Wehrmacht and, since this list was apparently some information about the typhus epidemic in Natzweiler, it is clear that this report had to be sent as secret.

Q Well, this fourth paragraph doesn't refer to an epidemic at Natzweiler. This refers to "investigations at Natzweiler." The third paragraph is referring to an epidemic they've heard about and want to know if these "investigations at Natzweiler" have any connection with the epidemic. Isn't that what that letter conveys? It's perfectly obvious that Kant or Rose or whoever suggested these two paragraphs was wondering whether or not the research work done by Haagen had caused disease or epidemic in the camp. Isn't that the import of this letter?

A It is what Professor Rose testified here on the witness stand.

Q It's quite obvious too, is it not, from reading the letter?

A But let me point out, since I knew that Professor Haagen was a bacteriologist or a hygienist, it would not have called my attention particularly, at the time, that he was carrying out investigations during an epidemic because that is what hygienists are supposed to do.

Q Well now, you state here that you have become aware of the fact that typhus problems like this are supposed to be classified as secret

and in this letter Haagen is being politely reprimanded for not having classified his report of 21 June 1944 as secret. Yet you spent considerable time in the course of your direct examination to point out in connection with Document No. 93h, which is not in a document book but was Prosecution Exhibit 8458, which was a list of medical research commissions drawn up at the time when you were referent apparently, and within that list of research commissions you made an attempt to indicate to this Tribunal that the entry concerning the typhus research of Haagen was erroneously classified in that paragraph as secret and that you introduced an affidavit to indicate to this Tribunal that your stenographer may well have made a typographical error, or the stenographer who typed the copy introduced here into evidence made said error. Now, how do you consistently attempt to declare that there is an error in this particular list of commissions when we find this language prevalent in this letter of 29 August 1944?

A I shall go back to the beginning of your speech when you said that I reproached Haagen and told Haagen that he was to make these reports secret. I must say that the letter is signed by Kant, the Chief of Staff. It was not I but some one else who told Haagen.....

Q (Interrupting) I don't believe I said you. If I did, I stand to be corrected. I refer to the writer of the letter and the writer of the letter is apparently Kant, but you wrote the first paragraph.

A As to this famous list, No. 93h, I have already explained very carefully that I am unfortunately unable to give a definite explanation, because I do not know where the list comes from. I gave a number of possibilities that might explain why the Haagen assignment is suddenly listed as secret, although in all documents, including the ones which you have submitted, it is considered open, and Dr. Tipp was kind enough to explain to the Tribunal that, according to the practice in German Wehrmacht correspondence, it might very well be that in Haagen's files this secret letter which Haagen sent to me, No. 132, was perhaps the

top one and that my secretary then assumed that the whole assignment -- everything connected with it -- was secret. That was a mistake, however. Not the assignment was secret, but only a report about a typhus epidemic in the camp of Natzweiler, and I think these are two entirely different things. But, since I unfortunately do not know where this list comes from, and since, there are a number of other very obvious mistakes in the list, since, in copying from the original photostat to this typewritten copy a number of further mistakes were made, I must assume that it is possible that this list was copied from our original somewhere else and that mistakes occurred there. I cannot say definitely that it was one or the other. I can only say that I do not know that Haagen's research assignment was ever secret and besides, I am convinced that this notation "secret" does not indicate any illegal experiments on the part of Haagen.

Q Doctor, let us turn to the next document, NO. 132 on page 99 of Document Book #12.

A Yes, I have it.

Q Will you kindly, under the word "reference" in the heading of the letter where it states: "Your communication dated 29 August 1944", then in parenthesis there is a code designation, will you read the code designation from your document so that the Tribunal may insert it in their document?

A Yes. The reference in NO. 132 reads: "Your communication dated 29 August 1944 -- File note: 55 No. 6028/44 secret (2 II A)."

Q Did you ever receive this letter, Doctor?

A I did not receive it. It was not addressed to me.

Q It wasn't forwarded to your office inasmuch as it had your registry designation on it?

A No, I am sure it was not because I have already explained how correspondence was dealt with in our office. All letters, without exception, were sent first to the department chief. Since my department chief knew very well that I had nothing whatever to do with epidemic

28 May 47-45-ATD-4-5-Harrow (Int. von Schon)  
Court No. 1

reports and typhus epidemics, he certainly would not send this on to my  
referat but sent it to the referat which was interested in such epi-  
demics. That was the Hygiene Referat and therefore I never saw this  
letter before this trial and certainly never had to work on it.



Q Let us go on to the discussion of the sea-water experiments, Doctor. I notice in the sea-water document book, the affidavit of Schroeder...

A I do not have this document.

Q Wherein he states they had two methods of making sea-water drinkable, one was the Schaefer method and the other the Berka method?

A Yes, I have it now.

Q He states that certain experiments had been conducted on human beings with sea-water processed according to the Berka method by Dr. von Sirany; will you kindly tell us what you know about the experiments conducted by von Sirany?

A In the course of my direct examination I said that in the first few weeks of 1944, I did some scientific work at the Aviation Research Institute and was not present at the referat for aviation medicine. When on 16 April 1944 I returned to my office, I learned then that in the meantime the referent, Professor Anthony, had learned that an Engineer Berka in Vienna had allegedly developed a method for making of sea-water drinkable and Dr. von Sirany, who was a Luftwaffe medical officer, or had been a Luftwaffe medical officer, had performed experiments working in military hospitals with soldiers, I believe to test this method. I also learned that Professor Anthony suggested that Dr. Schaefer was in Vienna for a few days and looked at the experiments. My knowledge of Sirany's experiments I obtained from what Schaefer told me about the experiments and also from a report put out by von Sirany at the end of April, which I read.

According to these reports, there were experiments on hospital inmates who were convalescing or had slight wounds or illnesses. Since von Sirany was, I believe, a skin specialist and had only a slight knowledge of psychological experiments, an expert could see at first glance that he had made some fundamental mistakes in setting up his experiments. Nevertheless, the records of the experiments indicated that

Sirary's conclusion was wrong. Sirary had concluded on the basis of his experiments that the Barka method was suitable to be introduced into sea distress practice, although we did not consider the experiments thorough. From a scientific sense, one could still see from the record that Sirary's conclusion was wrong though easily to be explained.

Q Well then at that time, studying the records, we note that Professor Schroeder states in his affidavit on paragraph 4:

"The consulting expert (Referent) on Aviation Medicine, Becker-Freyseng, who had been my subordinate since January 1944 (prior to this time Becker-Freyseng had been assistant to Anthony who was chief under Hippke) took the position that the experiments conducted by Sirary were not conclusive since the conditions were not as difficult as those on the high seas."

Is that the position you took?

A No, my position was the opposite. Again this is a mistake on the part of Professor Schroeder, who for two years had nothing to do with this problem. In the course of my direct examination, I emphatically explained that I considered Sirary's test conditions even more severe and even more dangerous than the test conditions existing later in the experiments conducted by Dr. Baiglboeck in Dachau. The fact that experimental conditions are never as severe as the conditions existing on the high seas, I think is obvious. No experiment can be made severe enough to correspond 100% to actual conditions at sea, with all the psychological conditions, etc.

Q Just a moment, Doctor. You say this is a mistake on the part of Professor Schroeder; again tell us is it difficult to become a Generaloberstabsarzt in the Luftwaffe?

A It is clear that a chief who has about twenty five referents subordinate to him cannot be informed about all the details of each referent, so well that two years later he will know all the detail or one specific statement made by each of his twenty five referents.

I am convinced that even General Taylor may not be exactly or completely informed about every statement you have made here, that would be mainly impossible.

Q Tell me weren't you some sort of a super referent, you were the one that handled all the research assignments, they all went through your office; you were in the position to Professor Schroeder similar to the executive officer of General Taylor?

So that as it may, Doctor, let us go on. In Document 184, which is Prosecution Exhibit 132, found on page 9 of document book 5, we find the first letter concerning the sea water problem. This letter is from the technical office, dated 15 May 1944. Under 1) in the letter, it states:

"The I.C. Method using mainly silver nitrate."

The I.C. method is the Schaefer method, is it not?

A Yes.

Q There is also another name for that method; isn't there?

A The factory name was W-o-f-f-e-l-t; that was the factory name, it has no significance.

Q Well, now, who informed the technical office about the Berka method?

A The Berka method?

Q Yes.

A I explained that in my direct examination too. Professor Anthony first heard of this Berka method and then in the course of March or April, I don't know exactly as I was not there, told the technical office that such a method existed and then the technical office no doubt got in touch with Dr. Berka.

Q Who informed the technical office about the Schaefer method?

A Here again I should like to refer to my direct examination. I said that in the first days of December of 1943, Dr. Schaefer himself demonstrated his method and gave the necessary explanation. In the case of

this demonstration and this little lecture, the medical inspector Generaloberstabsarzt Hippke was present and so was Oberstingenieur Christensen, who was a deputy chief in the technical office where this letter comes from.

Q. What relationship did the chief of the medical services have to the technical office?

A. They were both agencies of the Luftwaffe, there were no direct relations. In 1944 in particular, the chief of the medical service of the Luftwaffe was under the High Command of the Luftwaffe directly, while the technical office had other subordination, but I am not exactly informed about that.

Q. Well, now, you have taken exception to the opinion of the writer of this letter wherein he states under paragraph 1 that this would require  $2\frac{1}{2}$  to 3 tons of pure silver a month. You said that was a great exaggeration and gave your reasons for it. Now, whether or not that would require  $2\frac{1}{2}$  to 3 tons of silver a month; can you tell us whether or not silver would have been readily available in Germany at that time?

A. I know that Dr. Schnofer told me at the time that according to his information from the I.G. and from some agency of the Reichsbank he believed the necessary silver could be obtained even in 1944, but I may refer you to Dr. Schnofer. I did not inquire about that, I relied on what Dr. Schnofer told me.

Q. Well, inasmuch as this Schnofer method would require the use of silver nitrate, would it not have been to the advantage of the Luftwaffe at war to make a serious attempt to develop the Berka method due to the fact that the Berka method was inexpensive as compared to the Schnofer method?

A. I have explained in great detail as I believe that these economic reasons and raw material reasons were what influenced the technical office to advocate Berkatit and what in the final analysis



28 May 47-46-ATD-5-5-Heenan (Int. von Schon)  
Court No. 1

determined Generaloberstabsarzt Schroeder to have the question of  
Berkatit investigated by Eppinger and Heubner. Of course if Berkatit  
had been just as good in its final effect, it would have been a great  
advantage if one could get along without the silver.

Q You would like to have the experiments to determine whether  
or not it was good?

Q. I didn't want to have the experiments. Rather I had to participate in the preparation for these experiments because it was my duty. First of all I had to prevent the Berka method being introduced without being tested again and we had to determine what advice should be given to the winners and losers, if for medical reasons Merkatis could not be introduced, and for economic reasons the Wofatit could not be introduced.

Q. Yet all of the time, that is while laying these plans and instigating these experiments, I understand you knew that Merkatis wasn't any good? Isn't that what you said on direct examination?

A. I must tell you that was my personal scientific conviction but since I had scientific dependents of the caliber of Professor Weinger and Professor Neuhner, who are recognized throughout the world and who have patients from everywhere in the world, I had to assume the possibility that even I might be mistaken once in a while.

Q. Then you are not sure of your convictions, doctor?

A. Of course, I uphold my convictions. I said if you think this method is good we can decide only through an experiment.

Q. HADY: This will be a good breaking point, Your Honor.

Q. PRESIDING: I notice that on yesterday's witness sheet Layton Haugen is listed as a witness to be called by the defendant, Becker-Freysing. On this morning's witness sheet she has Layton Haugen does not appear but Adolf Jaeger appears on the witness sheet for the defendant Becker-Freysing. What witness is it the defendant Becker-Freysing wishes to call?

Q. HADY: As I understand it, your Honor, Dr. Haugen is going to appear after the sea water complex, namely after the case of Dr. Weiglboeck. Dr. Jaeger is the witness approved by the Tribunal for Dr. Steinbauer. Dr. Jaeger is the witness called by the defendant Weiglboeck.

Q. At this time, Your Honor, I wish to request Dr. Steinbauer to provide us with a notation with reference to Dr. Jaeger outlining substantially what he will testify to, where he was born and some of the

28 May-44-JP-6-2-Cook (Int. Von Schon)  
Court I

particulars.

THE PRESIDENT: Counsel for the defendant Seiglboech will furnish the prosecution with such a statement concerning the witness.

THE COURT will now be in recess.

(A short recess was taken)

THE MARSHAL: Persons in the court room will please find their seats.

The Tribunal is again in session.

BY MR. HARDY:

Q. Dr. Becker-Freysang, will you kindly turn to Document No. 177, which is Prosecution Exhibit 133, found on page 11 of Document Book # 5.

A. I have it.

Q. I gather from your testimony here in direct examination that you think that this document is a fraud. Just who do you think perpetrated this fraud?

A. I believe you have completely misunderstood my whole defense if you assume I said this document was a fraud. I never said such a thing. I don't know how you could have come to that conclusion. I simply explained that the Technical Office had drawn up a medical report and that, unfortunately, in so doing a large number of errors were committed and, in 1944, I drew the Technical Office's attention to this fact but, since I wouldn't know that this document was going to become involved in a murder trial, I didn't send in any written correction at that time nor did I ask the Technical Office to do so. However, there was no talk of a fraud at any time.

Q. Well, let us look at this document, Doctor. On the first page of the document we find the minutes of the conference regarding the methods for making sea water drinkable on 20 May 1944, and it lists the number of people present. Therein we notice that there were fourteen people present at the meeting. Now, might I ask you this. It seems that you have testified that you were unable to secure volunteers for the experiments from the civilian populace, from members of the Luftwaffe, and that was why it was necessary for you to resort to Himmler's source. Why didn't these fourteen men volunteer for the experiment? You had fourteen men right here, interested



in the problem; you could have used those fourteen men rather than jeopardize the lives of concentration camp inmates, couldn't you?

A. So far as I am concerned personally, I should have had no misgivings regarding subjecting myself to such brutal experiments, and, if you would like, I shall subject myself to a period of eight days without food or water if, thereafter, I receive three thousand calories a day and I know also that Herr Schickler and others did make themselves available for brief experiments. All of these people listed here, in the fifth year of the war, had a carefree important position in the war machinery and simply couldn't leave their offices for a month at a time to subject themselves to experiments. It was for the same reason that we could not find a total of forty - because it was forty we needed, not fourteen - in other segments of the population.

Q. You could have broadcast it on the radio and received some volunteers out of the millions of people living in Berlin, for a harmless experiment for the benefit of the German Wehrmacht. I call on the radio that "it is your patriotic duty to volunteer for this experiment." Something of that nature. You couldn't have received forty people in the whole of Berlin?

A. In my direct examination I also testified at great length regarding this, that I was convinced that for this experiment we undoubtedly could have found forty persons in Berlin, but not the forty people whom we needed for the experiment. It would have been easy enough for the prosecution to find witnesses to prove that, in the summer of 1944, there were certainly not forty healthy young men between twenty and thirty years old whose time was as available to them in such a way that they could take part in an experiment for four weeks. That was, in the summer of 1944 in Berlin, absolutely out of the question.

Q. You mean that the inmates of a concentration camp were healthier

than the civilian populace in Germany?

A. The forty experimental subjects used for these experiments were assuredly more healthy than many of the inhabitants at that time. In the course of further presentation of evidence in the sea water experiments it will become perfectly clear that these forty persons were particularly healthy, and when this proof is brought forth you will be able to convince yourself of that fact.

Q. When did you physically examine these forty experimental subjects?

A. The examination of them was carried out by Professor Beiglboeck very carefully, and after the conclusions of the experiments I heard from Professor Beiglboeck a detailed report about this health examination that the experimental subjects received.

Q. When did you physically examine the forty experimental subjects?

A. Please, may I refer to my direct examination here in which I said that I was never in Dachau and myself never saw the experimental subjects. That was completely unnecessary since Professor Beiglboeck was commissioned to carry out the experiments.

Q. These experiments were conducted in 1944, weren't they?

A. End of July and August, 1944.

Q. You didn't see the subjects?

A. No, I was not in Dachau.

Q. The subjects were concentration camp inmates?

A. At least during the time the experiments were carried out, they were in the concentration camp Dachau. Just what their fate was before then and after then I don't know.

Q. Now, let's refer to page 12, Document Book # 5. This states in the first paragraph and this will be the second sentence after the list of those present at the meeting on 19 May 1944. It reads as follows:

"The Chief of the Medical Service (Chef des Sanitätsdienstes) is convinced that, if the Berka method is used, damage to health has to be

expected not later than 6 days after taking Berketit, which damage will result in permanent injuries to health and -- according to the opinion of Untererst Dr. Schaefer -- will finally result in death after not later than 12 days."

Now this report, that was written by a layman and not being a medical man, contained that information. Was that information incorrect?

A. Not only were they erroneous then, but they still are.

Q. Let's turn to Document No. 474, the affidavit of Dr. Konrad Schaefer, a defendant here, Prosecution Exhibit 131, on page 60, Document Book # 5, paragraph 3. Turn to the third sentence therein:

"It was decided at this meeting to conduct experiments on concentration camp inmates with the Berka process, although it was generally admitted that Berketit and water process seriously impairs the health after six days and causes death after twelve days at the latest. It was further decided that the human experimental subjects were to be fed only see water, processed by the Berka method, for a period of twelve days."

Taking into consideration this affidavit of Schaefer, it appears that the entry in the minutes of the 19 May meeting are correct, does it not?

A. First, let me draw your attention to the fact that you yourself prevented me from speaking about Schaefer's affidavit in my direct examination when my counsel wished to ask me questions about it. Now, I don't know whether it is very fair to ask me about a document during during the cross examination.

Q. (Interrupting) Bear in mind that I did not prevent you from doing that. The Tribunal did. The Tribunal ruled on that. Not I. Now, let's continue.

A. Then I can say now what I intended to say during my direct examination, on which matter the Tribunal, on your suggestion, passed a ruling.

I happened to know that Dr. Schaefer was shown this Christensen

report before he signed his affidavit and that Dr. Schaefer believed that he would have to supplement his recollection on the basis of this peculiar report and, consequently, has set down in his affidavit what you just read to me, and I believe that Dr. Schaefer will discuss this affidavit at great length.

Q. You mean that you are testifying now on behalf of Dr. Schaefer that he perjured himself, under oath, in this affidavit?

A. No, no, no perjury. I think perhaps this question should better be discussed during the hearing of Dr. Schaefer.

Q. Well, it was evident to you, however, that death would result after not later than twelve days with the use of Berka sea water, wouldn't it? Didn't you say that you floated that as propaganda so that you could have the experiments conducted to prove that Berkatit was a fake and so that it wouldn't jeopardize the lives of aviators in the German Luftwaffe?

A. I am convinced that under certain circumstances death will occur much sooner than twelve days if the Berka method is used, and I have pointed out at great length that a sentence such as it stands here; namely, that after using the Berka method, serious damage is to be expected after six days -- that sentence is something that a medical layman could write but not a medical specialist. First of all, after you take Berkatit nothing can happen to you. What the layman wants to say is "after taking sea water which is treated with Berkatit". Thus, from this false formulation you can see that the person who wrote this sentence didn't really recognize the true medical and scientific implications.



Q. I am not a medical man, but I can recognize the implication you are trying to convey at the present time, I am sure that the Tribunal can see and I am sure that Christensen, the author of this report, whose signature is in the original, and it is to be assumed that it was written by Christensen, can certainly recognize it was stated at this meeting if the Berka method was used, it would result in death. It simply says that in this sentence and I think you have shown that same fact in the course of your examination here when you now say that it would result in perhaps less than twelve days. How long do you think it would take after drinking the sea-water treated by the Berka method; six days, seven days?

A. According to the available literature on shipwreck catastrophes death can follow even after a few hours after the person drinks sea water, that depends first of all on the person's condition who drinks the sea-water and secondly how much sea-water he drinks. What is to be ascertained here was really and in effect a specific experimental subject was taken from Sirany's experimental series and it was explained to the technician that if this specific person drank in the next six or twelve days as much sea water as he drank in the first two or three days, then this specific person under these very specific conditions would probably die after twelve days. This was taken by the technicians and generalized by them and that is the basis of this factual report.

Q. We will let the Tribunal decide as to whether it is factual or not. Tell me, when are the symptoms apparent when a person drinks sea water for any period of time; what happens to them?

A. Here again it depends on what condition the person

is in and how much he drinks.

Q. They might suffer from diarrhea; is that right?

A. That entirely depends on how much sea-water he drinks.

Q. It is possible, of course, that a person could have diarrhea as a result of drinking sea-water.

A. You cannot answer that question in such general terms.

Q. Is it possible they could have convulsions, that is the symptoms of the effect of drinking sea-water; isn't it? In a hundred cases might it appear in one?

A. I never heard that.

DR. TIPS: Mr. President, again the objection that I unfortunately had to make yesterday; I have to make again. Mr. Hardy is not letting Dr. Becker-Freyseng finish his sentences. I believe it would contribute to the general clarity of the interrogation if the witness could conclude his sentences.

THE PRESIDENT: The witness may be allowed to finish any sentences he desires to answer as put to him by the Prosecution.

BY MR. HARDY:

Q. Is diarrhea a symptom after a person drinks sea-water even one percent of the time; in one hundred cases might it happen once?

A. That has nothing to do with a percentage, it depends wholly on the quantity contained in the individual dose of sea-water. If you drink more than 300 cc of sea-water in one single dose then you have diarrhea, if the dose is smaller, then you do not.

Q. Can you suffer from convulsions as a result of drinking a certain amount of sea-water?

A. I cannot answer that question. From the literature that I read, I know of no single case of convulsions and

since I did not see the sea-water experiments myself, it is impossible for me to answer that question in the affirmative. I do know that in the case of the disease that I referred the technicians to as a horrible example, namely cholera, you do have convulsions, but these convulsions are not solely the result of drinking sea-water, but are a symptom of sickness itself. I cannot designate between those two possible sources of the reaction at the moment, what is the result of thirst or of the sickness itself, perhaps Professor Beiglböcke can answer that question.

Q. After drinking sea-water for some period of time, is it possible that the person may suffer from hallucinations; will they have hallucinations?

A. The literature I have read on cases of ship-wrecked persons and this is about all detailed descriptions of English sea-wrecks, they speak of "Fate Morgano" and other matters. Now whether in a strictly psychological sense these are genuine hallucinations or not I do not know, the literature is very limited in this matter. I am not a Psychiatrist and I cannot answer this question, but since I know that you are referring to this document, this Christensen document, let me say that in my direct examination I quoted a passage from Bergmann's text books regarding thirst symptoms of cholera and there was nothing there about hallucinations.

Q. And you have testified already death can result from drinking sea-water?

A. Yes.

Q. Well now this sentence here in this report written by a lay-man, Christensen, states: "External symptoms are to be expected, such as drainage, diarrhea, convulsions, hallucinations and finally death." That is a pretty good

accurate statement, isn't it?

A. Let me say first of all in general it frequently occurs that lay-men do more talking about difficult subjects and are more dangerous and unhesitant than specialists, and secondly, I have already told you what the basis of this lay-men's statement is, which is mainly the quotation from that text book. I mentioned that sentence in the text book and certainly it must have made a great impression on Mr. Christensen or perhaps on Schickler, if he drew up the report, that is why you find it reproduced here in this report. Moreover in Sirany's case experimental subjects actually did have diarrhea but Sirany's experiments were much more unhesitant and dangerous than the experiments made by associates planned and written. Sigelboeck carried out and in those cases of ours we did not have any diarrhea.

Q. Well, now, Christensen says here in this report that as a result of the preliminary discussions it was decided to arrange a new series of experiments of short duration; that fact is true isn't it?

A. That is undoubtedly true. There isn't much in saying that, because everything revolved around that question.

Q. It was also agreed that in the series of experiments persons would be given sea-water processed with the fermentit method; wasn't it? Let us just set aside the report for a moment. It was also agreed that persons would be used in the experiments and said persons would receive sea-water processed by the fermentit method; isn't that right?

A. That did not have to be agreed upon, because that was the question we were trying to decide.



Q. It was also stated that persons selected would be control persons and they would drink merely plain water; didn't they?

A. There again is one of those control groups, which are frequently been mentioned in this trial, namely the control cases. They were much better off than the actual experimental groups who drank the Berkitt and sea-water. I possibly said that at that time because these were scientific objections which I made to Dr. Van Sireni's plan for the experiment as he did not have such a control group in his series of experiments.

Q. Now, I have stated here in direct examination that persons would be given 500 cc of Berkitt, another group would be given 1,000 cc of Berkitt, the third group will be a normal group given ordinary drinking water, the fourth group would be given sea-water without anything, and a fifth group would get nothing; is that right what you said here in direct examination?

A. That was a part of what I said in my direct examination, but not all and what you have left out I consider very important, namely the conditions under which the experiments were to be carried out, which were decided on in the presence of Professor Brininger and Neuhner, which is a fundamental difference from a medical experimental series.

Q. Well now you said in your direct examination that I intended to make the cases more binding, Doctor, when I stated there was a fifth group and a fourth group. The fifth will get nothing at all, the fourth will get plain sea-water; I wouldn't even give them the courtesy of giving them sea-water treated with the Berkitt method; is that right? In it is not prevalent here in this report

either that you intended to use people and give them merely sea-water and nothing else.

A. I am very glad that the Prosecution has finally stated that what actually was decided on and what statements are in this report is in contradiction to each other. I never thought that Berkatit was a particular act of philanthropy or that drinking sea-water is not such a horrible matter as you seem to believe.

Q. People die with it, don't they?

A. You can die with anything.

Q. Certainly. Let's go on, article No. 2 on page 13, Christensen states here under the section: "Persons nourished with sea water and berberit, and as diet also the emergency sea rations. Duration of experiments: 12 days. Since in the opinion of the Chief of the Medical Service (Chef des Sanit tsdienstes) permanent injuries to health, that is the death of the experimental subjects has to be expected, as experimental subjects such persons should be used as will be put at the disposal of the Reichsf hrer SS." Dr. Christensen made that remark and he obviously based that remark on what he heard at the conference, did he not. He didn't just conjure up that idea by himself, did not?

A. He certainly heard that but what is written down here is not what he heard from me or Dr. Schoeffler verbatim but is the result of what Christensen understood.

Q. Well so -

A. That is right and it appears that a layman who attended a conference will think he is not a specialist and does not understand what really was said. Let me point out two matters to you. The first is that if I really had proposed an experiment in sea water with berberit that lasted twelve days, let me assume for the moment, then I cannot understand why I should have also suggested the same experiment for six days because in the 12 day experiment I must perform just carry out the first six days and consequently can see in the twelve day experiment everything that I could see in the six day experiment.

Q. You have elaborately explained the experiment. I haven't asked you the question at all. I have asked you concerning what Christensen wrote in this report right here in this paragraph: "Since in the opinion of the Chief of the Medical Services permanent injuries to health, that is, the death of the experimental subjects has to be expected",

Q. Now he heard that at that meeting, didn't he, or he wouldn't have written it here?

A. He most certainly did not hear it at that time because I never said any such nonsense.

Q. He says he heard it at the meeting, doesn't he?

A. He says so, yes.

Q. And furthermore he says in this paragraph that due to the fact that death is to be expected, we will have to get our experimental subjects from the Reichsfuehrer SS, that is what that says in this paragraph, does it not?

A. Please let me tell you my second reason why this cannot be true, and then I can answer your question.

Q. Just a moment, does that say that in this paragraph from reading this paragraph on it's face, does it not say that the death of the experimental subjects was to be expected, and as experimental subjects such persons should be used as will be put at the disposal of the Reichsfuehrer SS, does it say that or doesn't it?

A. There is no doubt it is here. Nobody denies it is written here, and I never denied that the document is genuine.

Q. Now could Christensen know the Reichsfuehrer SS would supply concentration camp inmates?

A. Let me tell you first of all that between Christensen's office and the Reichsfuehrer SS, there, without the Chief of the Medical Inspectorate or myself knowing about it, there were close connections. However, at our meeting of the 25th I spoke of the possibility in case we found no other experimental subjects of making an effort to use inmates, and not because the experiments were dangerous or no life came from it, but purely for organizational reasons. Now I ask you for the third time, please let me finish my second reason. After the meeting of the 25th of May we tried to carry out the experiments such as I had previously to be carried out in Dachau on cadets from the



military academy and then when we were not successful in that, then to carry them out on persons in the Luftwaffe Hospital in Brunswick. That proves without doubt that the conclusion which Christensen seems to have drawn in this report is certainly not a correct conclusion.

Q. Where is that evidence?

A. It seems very simple to me - Mr. Christensen says --

Q. Where is the evidence that you had experiments after that time, after the 25th of May, on cadets? Where is that evidence?

A. Refer to the affidavit of the Commander of the Medical Academy of the Luftwaffe. I don't believe you will accuse him of committing perjury. Otherwise, you would have to make him stand trial and that has not taken place, and the Chief of the Luftwaffe Hospital in Brunswick who has also given an affidavit on this subject, says that either Schroeder or someone authorized by him, was to carry out experiments in the Luftwaffe Hospital in Brunswick.

Q. Did they carry out the experiments?

A. I have said several times that because of conditions in 1944 unfortunately the experiments could be carried out neither at the one nor at other place and this was the reason why the letter was sent to Himmler asking that these experiments be carried out on inmates, and that is the reason.

Q. Of course, Christensen implies here the only reason why you are going to Himmler is because you expected death and you can very well kill concentration camp inmates where you couldn't very well

kill cadets, you might well perform experiments on cadets that wouldn't result in death, but here Christensen points out that you people agreed in this conference that death would be the result and hence it is necessary to resort to the Reichsfuehrer SS for subjects to be used because you didn't want to kill any of these valuable cadets, isn't that more likely the situation?

A. This is perhaps a picture of what actually went on in .

Christensen's mind, that I do not know. At any rate is it not a reproduction of the thoughts that went on in my mind and also let me point out to you the following: Never, never, not even in this conference that took place almost three years ago, never did I say that deaths were to be counted on in these experiments. I said that in practical cases of ship wreck there would be serious damage to health if the Bernatit method was used and that is something altogether different and every medical specialist will agree with me when I say that any method that took place out in the ocean hundreds of miles from shore, is dangerous, when I say that these same circumstances can be reproduced in a laboratory on an experimental subject with no danger to the experimental subject's life, and this was proved later in effect as to how experiments were actually carried out and how they resulted and this is unambiguously a misunderstanding on Christensen's part, who confused experimental danger with the experimental situation, who never in his life had carried out any medical experiment.

Q. What did Professor Eppinger think about using concentration camp inmates?

A. I can't tell you because I never discussed the matter with Professor Eppinger.

Q. Did he exhibit any misgivings about it?

A. Not to me because in the meeting of the 25th which I attended with Professor Levi for the question of experimental subjects was not even brought up. The experimental conditions were established according to purely medical and scientific principles, independently, whether they were to be carried out on volunteer cadets or hospital inmates or concentration camp inmates, that was not decided at all on the 25th and it was not discussed. Also I do not know when Dr. Eppinger first found out the experiments were carried out in Buchenau nor do I know what he thought about that, consequently I cannot answer your question.

Q. Professor Eppinger was a very famous physician, was he not?

A. Yes.

Q. He was associated with the University of Vienna?

A. He was an ordinarius for internal medicine on the medical faculty of the University of Vienna.

Q. Wasn't his name on a high plane in medical circles in Europe?

A. In the field of internal medicine he was certainly one of the leading authorities of Europe. I assume that because I have heard that statement and members of the royal and noble families from outside Germany have frequently called on him for treatment.

Q. Do you know what happened to Professor Springer?

A. In the course of this trial I have heard that Professor Springer committed suicide?

Q. Did you know that Professor Springer saw the actual experiments Siegelboock was conducting at Dachau?

A. I heard from Professor Siegelboock that Professor Springer was at Dachau and that I believe during the course of the experiments and in the one or the other testimony here I heard that corroborated.

Q. Did you hear from defense counsel or other sources that Professor Springer committed suicide in a matter of hours after being visited by a representative of my office?

A. No, this is the first time that I have heard that.

Q. You don't know whether or not Professor Springer ever had his-  
givings about being irradiated in the experiments with sun water at the Dachau concentration camp?

A. If he ever had any such misgivings just shortly before his death.

Q Let's turn to document NO-185, page 18, Document Book V, which is Prosecution Exhibit 134. You wrote this letter, doctor?

A I drew up the first draft of this letter and dictated it. Showed this draft to my department chief and he, as I clearly remember, made a few changes that I do not remember exactly today. Perhaps you may have his files and there are in my original draft the changes that he made. Then the letter was submitted to the Chief of Staff and finally was submitted to the chief himself to be signed.

Q According to the translation of this document by defense counsel, Dr. Marx - the important sentence that we have been discussing here is the second statement in that letter. Dr. Marx's translation reads as follows: "Today again I am standing before a decision, which, after numerous experiments on animals and also on human beings demands a final solution on voluntary experimental subjects." Now, using that translation can you tell me who the human beings were, that is, the non-volunteers that you used prior to this. You are asking for volunteers. From that sentence it indicates to me that you had experimented with animals, then non-volunteers, and now are stressing the fact you want volunteers. Who were the non-volunteers you used before you asked Himmler for volunteer subjects?

A First of all in this whole letter there is nothing about volunteers. Life does not consist solely of contradictions so that because there is the word volunteers in one sentence you cannot conclude that all the other persons that were used were non-volunteers. That is not necessary antithesis. There were two groups of experimental persons. First of all, in the two series of experiments there were the associates of Dr. Schaefer and on the other hand experimental subjects used by Sirany in Vienna. Both of these groups of subjects were volunteers, no doubt.

Q Well, you have already experimented on animals, according to the translation by defense counsel, and you have already experimented on human beings, but now it demands further experiments. What is the reason you couldn't use the same human beings, for instance, that you used for the others. Is it because the final solution is death?



A. No. Schaefer's experimental subjects were in toto four technical assistants and I think nothing throws a sharper light on the sore plight in which Germany found itself in at the time, than the fact that Schaefer, during the course of his experiments had to use four technicians as experimental subjects at the same time carrying on their regular work. If anything could have been done to avoid that these technical assistants certainly would have given up regular work during the experiments. Now, the second group of subjects were inmates of hospitals. These are people in part, as Dr. Schaefer will be later able to state, who had wounds who, however, could not be used at the front because of the wounds. And, these consequently were persons whom we considered not to be appropriate for the testing of the Burke method because what we needed for experimental subjects were healthy persons from the age of 18 to 30. No person among the specialists concerned ever mentioned or thought of death in connection with these experiments and in this letter too there is no mention of death. It does not even say in this letter persons condemned to death should be used for the experiments which should certainly be in the letter if death was considered at all a possibility of the experiments.

Q. Well here in the letter in the second paragraph you state "As the experiments on human beings could thus far only be carried out for a period of four days, and as practical demands require a remedy for those who are in distress at sea up to 12 days, appropriate experiments are necessary." And the other document signed by Christensen says death would result in 12 days. You have it in here that you thought of death when you wrote this document. These two documents fit together like a jigsaw puzzle.

A. I beg your pardon. You said that death is again mentioned here. According to the true copy that I have before me I see no mention of the word death.

Q. You said here necessary to experiment with them for 12 days, and any experiment lasting 12 days according to your own testimony and according to the document will result in death using the Burke method.

Of course, I admit that you need the other document. You must realize that it is apparent here, isn't it?

A. It is not at all apparent. I have made efforts but I see they have been in vain to say in my direct examination why the number 12 comes up here in reference to the number of days. If you stress it I will repeat that testimony now, otherwise I can wait until later on when counsel re-direct examines me.

Q. Go right ahead.

A. Thank you. This sentence simply says that the method that would subsequently be used in practice was to be tested for 12 days experimentally. Now let us assume that I had 12 different methods and wanted to choose the best one. That the first method would fail on the very first day, and the persons who were used for this first method would be eliminated from the experimental series on the very first day; this would keep on until, on the 12th day of the experiments, only those persons would be left who had been treated by the best method and that would be the method proved to be usable in practice, which would then be introduced. There is no mention in this letter of any experiment to be carried out for 12 days with the dangerous and unsatisfactory Berkefit. And I believe I can leave the rest to the proof of the actual results of this experiments, which shows that they were carried out as I have just described.

Q. Doctor, at the top of this letter we see the registry number 2F. How does it happen that you used the registry number 2F at such a late date as 7 June 1944, or was that just one of those instances where 2F and III overlapped?

A. I have only a typed copy here, not a photostat, but I assume what you say is correct. Either that was one of the cases where the two overlapped, or I made a mistake in the date. Perhaps the new number was not introduced until May. At any rate there is no doubt that this letter was handled by my Referat.

Q. How many times had you requested inmates from Himmler prior to this time?

A I myself, never.

Q How did you know that you could get inmates from Himmler?

A I believe that was explained at great length during the examination of Prof. Schroeder. Prof. Schroeder was previously employed with the Reichsarzt SS and Police and found out from him what procedure was to be pursued in this case, and then I received an order, from the Chief of the Medical Inspectorate via my department chief to draw up such a letter. That's how I know about it.

Q Well, you of course knew in 1942 from listening to the conference between Rascher and Hippke that you could get experimental subjects from Himmler. You know that at an early date, didn't you? Had you gone to Himmler at any other time? Or had Schroeder gone to Himmler? Or had Hippke gone to Himmler? From this letter it appears you are quite familiar with the procedure necessary to get the proper number of subjects from Himmler. You say here "Earlier already you made it possible for the Luftwaffe to settle urgent medical matters through experiments on human beings." Now, when, other than in the high-altitude and freezing experiments, did Himmler make it possible for the Luftwaffe to settle urgent medical matters? You apparently at this time know about all other experiments conducted on concentration camp inmates for the benefit of the Luftwaffe. You wrote this letter.

A From the conference between General Oberstarzt Hippke and Mr. Rascher I found out nothing about the way Rascher got his experimental subjects. I clearly remember that Rascher named not only Himmler at that time but also Hitler. So, if I had had to do it alone I might have filed my application with Hitler or with Reich Ministry of Justice, or I don't know when I might have sent it to. And, moreover in my direct examination I said at great length that this first sentence refers to the fact that I informed Professor Schroeder at that time that Professor Holzknecht had carried out experiments in Dachau and that Rascher had stated in Nurnberg that those experiments were under Himmler's responsibility. That was the total extent of my knowledge in

these matters, and I cannot read any more into this first sentence. This gave the Luftwaffe the opportunity to clarify urgent medical problems -- quick regarding -- through experiment -- not experiments -- on human beings. I don't know how you can draw the conclusion from that that I know about all the experiments.

Q Were you aware of the fact that Heagon got inmates from the SS?

A No. Of that I know nothing. I believe this question will be thoroughly clarified here.



Court 1

Q Well, now this second sentence, the one which the interpreters say is rather ambiguous. However, they do state that the Prosecution's translation is more likely. This sentence, as it stand in the copy presented by the prosecution, or the translation presented by the prosecution, on page 16 of Document Book 5, states as follows:

A Document #5, not 15.

Q I believe I said 5.

'Today I again stand before a decision, which after numerous experiments on animals and also on voluntary human subjects, demands final resolution.'

Now, as that stands here now, isn't it apparent that you had worked as far as possible on voluntary human subjects and that you were looking for inmates other than volunteers?

DR. TIER: Mr. President, perhaps this would be the appropriate moment for a brief remark, namely the following: Dr. Faraday has just stated that the interpreters said that the prosecution's version was more likely. I ask permission to put two questions to the interpreters to clear up this difficulty, once and for all, then I believe we shall have this matter perfectly clear. The first question.....

A. M. T. Just a moment, Your Honor, I have already filed with the Tribunal a memorandum. Defense counsel has that opportunity to do the same. The Prosecution has filed their memorandum, a copy has been sent to defense counsel, a matter of three months ago, with the opinion of the Chief of the translation Section, and the Chief of the translation Section, who is more an authority on this matter academically than the interpreters in this court room, has stated in that memorandum both to the Tribunal and to Defense Counsel, that the translation as presented by Defense Counsel is absolutely incorrect. Therefore I think I can continue my examination, presuming that the Prosecution's contention is right, without interruption.

THE PRESIDENT: As far as I know, no member of the Tribunal has seen the certificates which were filed concerning these different trans-

Court 1

lations. I understood that the interpreters, who reported to the Tribunal in open Court, would file a written statement of what they had reported. If Counsel desires to cross-examine the witness upon the assumption that the Prosecution's translation is correct, the Prosecution may do so.

MR. HARDY: Pardon me, Your Honor, may I cross-examine the witness following the contention that the translation is correct and not assuming it to be correct?

DR. TIFF: May I reply briefly, Mr. President? Mr. Hardy stated that a memorandum from the Chief of the Translation Department was put in three months ago, stating that the Defense Counsel translation is incorrect. Let me mention two points in this connection. First neither I nor my two colleagues concerned in the sea water matter, Dr. Polckmann and Dr. Steinbauer, ever saw such a memorandum from the Chief of the Language Division. Secondly, the sentence which Mr. Hardy says the Defense is translating incorrectly is apparently the one which was put to Becker-Freysang four days ago, by Dr. Marx, in direct examination. Now what Mr. Hardy says cannot be entirely correct. I do not believe, Mr. President, that it is permissible, before it has been cleared up without any doubt which of the two interpretations of this sentence does justice to the spirit and the letter of the German that cross-examination be carried out on the basis of the translation submitted by the Prosecution and contested by the Defense. If this cross-examination is to have any point, it can be carried on only on the basis of a new translation which is accepted as correct by both the Defense and the Prosecution, and such a translation we do not have.

THE PRESIDENT: Does Defense Counsel desire to have his own experts make another translation of this, with their reasons for the translation which they contend is correct?

DR. TIFF: Yes, Mr. President, This memorandum is in a state of preparation but is not yet finished. I believe we can dispense with a written memorandum however if the interpreters would not answer two

Court 1

questions - which I should like to put to them if Mr. Hardy will let me. The first one is .....

MR. HARDY (interrupting), I submit, Your Honor,....

THE PRESIDENT: (interrupting), Allow counsel to finish his statement.

MR. HARDY: He was about to ask questions of the interpreters.

THE PRESIDENT: I did not understand that. Counsel will not ask the questions without the permission of the Tribunal, but counsel was making some further statement.

MR. TIP: (Mr. President, I should like to put to the interpreters only two questions, the first of which is.....

THE PRESIDENT (Interrupting) Just a moment before propounding these questions. What have you to say concerning that procedure, Mr. Hardy?

MR. HARDY: I say concerning that procedure, Your Honor, that it isn't proper to ask the court interpreters these questions. This is academic only. The Office for Chief of Counsel for War Crimes has four Attorneys in the Language Division, one of which is the translation Section. In the translation Section are people that have different qualifications in many respects from the interpreters here, and in such matters as this they confer with one another and sit in a round-table conference. Just that has been done. To ask these interpreters here to simultaneously answer questions concerning these points which are so ambiguous, and to do it in a period of a half hour, is unfair, and I submit that if Defense Counsel requests to put questions concerning translations, that they should be directed to the Chief of the Translation Branch of the Office of Chief of Counsel for War Crimes, and the Chief of that Branch will answer his questions.

MR. TIP: I regret that Mr. Hardy is accusing me of unfairness. I believe that I have not deserved such an accusation in the course of my presentation so far. However, if I have so been reproached, Mr. President, I feel that it is just as fair that the Translation Department, according to Mr. Hardy, turned in Memoranda three months ago

Court 1

about this decisive document in the seawater case, which defense counsel had never ever heard, until now, much less seen a copy of.

THE PT. SILENT: The Tribunal finds no occasion for any reproach to defense Counsel. During the noon recess, which is about to take place Counsel for Defense may procure - the Secretary General may deliver to Counsel for Defense a copy of translation which the Prosecution says was filed with the Defense Counsel some time ago. Defense Counsel may then prepare the questions which they desire to propound to translators and submit those questions to the Tribunal when it reconvenes at 1:30 o'clock. Copies of all these papers should be prepared so that each member of the Tribunal may have a copy.

MR. HARDY: Your Honor, in connection with this topic, I understand that this situation arose some months ago - was brought up by Defense Counsel. At that time, Mr. McNamara - or course, I am busy with many other problems. I didn't handle this problem. Mr. McNamara handled it. Mr. McNamara at that time requested the Translation Division to exhaustively study the documents, and he filed a memorandum, written by Translation Division, with the Secretary General for distribution. It may well be that it has not been distributed to date, but that was, as I understood it, and it was in answer to an objection previously raised, by Dr. Marx, not Dr. Tipp.

JUDGE SEYMOUR: Well, Mr. Hardy, if that has been done, shouldn't it be a very easy thing for you to procure copies and deliver them to such Counsel the Defense as are interested and perhaps deliver them to this Court. This Court have never seen them.

MR. HARDY: All copies were delivered. No copies were saved, Your Honor. I have been unable to find the other copies and I am preparing a new one to submit during rebuttal.

THE PT. SILENT: You say the Secretary General has now no original copy on file?

MR. HARDY: Well I didn't check with the Secretary General.



Court 1

THE PRESIDENT: That would be the Office - that would be the place where certainly an original should be. Counsel for the Prosecution and Defense will ascertain, during the noon recess, whether the Secretary General still has an original copy of that translation as it was reported and filed with the Secretary General and delivered to Counsel as stated now by Counsel for the Prosecution, although he was not personally connected with the preparation of that translation. A copy of that translation should be ready to present to the Tribunal at 1:30 o'clock. By that time Defense Counsel may prepare the questions concerning this disputed translation which they desire to submit to adequate interpreters, whether our own in court or others or a combination of both. The Tribunal will then determine how the matter will be handled and a final report will be made to the Tribunal. The ultimate decision will, of course, rest on the Tribunal.

MR. [NAME]: Your Honor, I'm afraid I won't be able to secure those copies of the translation. I would have to explore around to find those copies, and I could not make them available at 1:30.

THE PRESIDENT: It occurred to me that the original would be on file with the Secretary General, it hadn't occurred that the disputed translation would be very long. I suppose it would take five minutes to make copies on typewriter. I may be wrong.

MR. [NAME]: Then, could I request the clerk here to procedure that from the Secretary General's Office?

THE PRESIDENT: The Court is about to go into recess. I would suggest that Counsel for the Defense and the Prosecution and the Clerk of this Court proceed together to the Office of the Secretary General and ascertain if that record is available there and can be found. If it cannot, and no other copies are available that would be an impediment as far as this translation is concerned, and we would have to start over again. Is there anything further the Tribunal can state prior to taking a recess?

MR. [NAME]: Perhaps, Mr. President, I could ask that the noon recess

Court 1

be until 2:00 o'clock. In the period of one hour I doubt whether I or Mr. Hardy will be able to make these necessary ascertainsments.

MR. HARDY: Your Honor, I think the best solution to this problem is, I think the objection has been raised to a question put by me in the course of cross-examination. The problem is that defense counsel has submitted a translation which creates a doubt as to the authenticity of a translation submitted by the prosecution. That is argument I think that if we can put this off to a future date - perhaps during the time of rebuttal and clothing when both sides can ably prepare a brief on the subject and submit them on that date, then the people involved can be called before this Tribunal as witnesses and testify, if necessary. I think the problem is far too acute to try to settle it today and will continue my cross-examination by merely referring that my copy is true, is an assumption, as I did in the case of the defense counsel's copy. I have done that in one instance and I should like to do it in another instance.

THE PRESIDENT: If counsel will base his questions upon the assumption that the translation submitted by the prosecution is correct then the examination may proceed. It would be impossible otherwise because the witness does not admit that that translation is correct. I think the weekend is approaching and the Tribunal will recess tomorrow noon - until Monday morning which will allow a little bit longer time. During that time, some progress might be made in settling this translation, but if Counsel for Defense desires to prepare the questions which they wish to submit to a group of interpreters they may present those questions to the prosecution and to the Tribunal as soon as they are prepared.

Is there anything further that can be added?

MR. HIRSH: On this occasion, Mr. President, unfortunately, I have another question to bring up that concerns the translations. Many days ago I gave a document to the Translation Division which is of decisive importance in clarifying this sub water problem. It was an affidavit by

Court 1

the same Mr. Christensen who drew up this report we have recently discussed here. Despite my efforts every day, I have not succeeded in receiving this translation within a period of ten days although this is a document of only four or five pages, and, in my opinion, should take a maximum of two hours to translate. I wish to make no charges here. I do not know what the reason for this is. I do not know why this decisive document has not yet been given back to me and perhaps the Tribunal can help me in obtaining this translation in time to use it in the case of Acker-Bryceland.

THE PRESIDENT: The Tribunal has been advised that the Translation Department is very heavily loaded with work and has been unable to produce the translations as rapidly as possible. If Counsel for Defense will call at my office, I will endeavor to call the Office of the Secretary and see if this translation can be expedited. That is just immediately upon the recess now. Counsel will come to my office and I will telephone and see if I can ascertain the reasons for the delay in the translation.

At this time will be in recess until 1:30 o'clock.

(A recess was taken until 1330 hours, 28 May, 1947.)

AFTERNOON SESSION

(The hearing reconvened at 1330 hours, 28 May 1947.)

THE MARSHAL: The Tribunal is again in session

FERMAN RECKER-FREYSENG (Resumed)

CROSS EXAMINATION (Continued)

MR. HARDY: May it please the Tribunal, first of all I must humbly apologize to the Tribunal for stating this document was filed three months ago. I was informed at noon time the memorandum was dated 15 May. I must admit I am thoroughly embarrassed that I said it was filed three months ago.

THE PRESIDENT: You are referring, counsel, to this translation?

MR. HARDY: That is right, Your Honor. I have here a copy of the memorandum written to Mr. James M. McHaney, Chief, SS Division, by Paul Joosten, Chief, Translation Branch, attached thereto a carrier note to the Secretary of Military Tribunal, subject: Translation of Document NO-185, also a copy of the memorandum to The Secretary General, Military Tribunal:

"(1) The attached memorandum, subject 'Translation of Document NO-185', presents accurately and without omission the view of the Language Division on the translation of the sentence in question." (Signed)  
Thomas E. Hodges, Director, Language Division.

In order to clarify this point, Your Honor, I suggest at this time that this memorandum be given to the court interpreter and ask her to read it into the record. It is only one and one half pages. It clarifies the point to agreement, I think, of defense counsel. After it is read in the record, I think defense counsel will make a statement on it and then we can clear up the matter here and now. After having been read by the interpreter, it is suggested that the copy be turned over to the court reporters so that they will place it in the record without errors and omissions and then returned to the Tribunal.

THE PRESIDENT: Each member of the Tribunal desires a copy of that memorandum.



MR. HARDY: I would like to have it read into the record and turned over to the court reporters and then returned to me and I will have a sufficient number of copies made for the Tribunal.

THE PRESIDENT: Has defense counsel any objection to that proceeding of that being read into the record by the interpreter? That will in no way be binding on defense counsel; they can still make any arguments they desire as to whether this is correct or incorrect.

Very well, that procedure may be followed and the interpreter may read it into the record. I will say for the record that the defense counsel signified no objection to this procedure. I would suggest that the interpreters first read the sentence in German and then read the document which has been given to them.

MR. HARDY: Your Honor, the memorandum is so written that it has the entire passage in German in the memorandum.

THE PRESIDENT: Very well, that is all included in the memorandum.

THE INTERPRETER: "15 May 1947.

"TO : Mr. James M. McHaney, Chief, SS Division

"FROM : Paul Joosten, Chief, Translation Branch

"SUBJECT: Translation of Document No. 186

"Dr. Hans Marx, counsel for defendants Professor Schroeder and Dr. Becker-Freyseng, objects to the translation of a sentence in Document NO-186. The disputed sentence reads in German:

"Ich stehe heute wieder vor einer Entscheidung, die nach zahlreichen Tier- und auch Menschenversuchen an freiwilligen Versuchspersonen eine endgültige Lösung verlangt."

"The translation of the document in question was certified by Miss Gertrude Levinger and the sentence reads as follows:

"Today I again stand before a decision which, after numerous experiments on animals and also on voluntary human subjects, demands final resolution."

"Dr. Marx claims that a correct literal translation, according to the sense, would be:

"Today again I am standing before a decision which after numerous experiments on animals and also on human beings demands a final solution on voluntary experimental subjects."

"Resolution" is, of course, wrong; it should be "solution". The German sentence is very awkwardly worded. You do not find a solution for a decision. But I cannot accept Dr. Marx's translation, however awkward the sentence may be put together in German. He asks for a correct literal translation, and the one he gives is supposed to have these qualifications. However, it will be seen that in this translation 'eine endgueltige Loesung' does not appear in the correct sequence. Dr. Marx makes an arbitrary transportation. A correct literal translation, without commas, just like the German original, is as follows:

"Today again I stand before a decision which after numerous animal as well as human experiments on voluntary experimental subjects demands a final solution."

"If the German meant what Dr. Marx claims it to mean, then the same sequence of words used in this English translation would also exist in the German version.

"The German sentence unequivocally states that up to now animal and human volunteers have been experimented upon and a final solution is now demanded.

"It is correct that part of the last sentence of the first paragraph is missing, namely the words 'nach unseren heutigen Kenntnissen' (according to our present knowledge)."

(Signed) Paul Joosten, Chief, Translation Branch.

MR. EASBY: Your Honor, I submit that the new literal translation intended by this memorandum reads as follows:

"Today again I stand before a decision, which after numerous animal as well as human experiments on voluntary experimental subjects demands a final solution."

I could ask if defense counsel is willing to accept that translation for the passage of the German document, in other words, this is different

than the other two that have been offered.

THE PRESIDENT: Defense counsel may ask that question if they desire, but if they desire more time to study the matter they will not be required to answer that question now.

MR. TIPP: Mr. President, I do speak some English, but on this important point I should not like yet to say that the translation is completely correct. As far as I can tell, the translation last suggested agrees with the German words, but as I said I should like to have an expert in the field examine it.

Court 1 - Case 1

THE PRESIDENT: Defense counsel may consider this matter over the weekend or sooner, if possible, and report to the Court as to the translation which they believe is literally, grammatically correct.

Meanwhile, in cross examining the witness, counsel for the prosecution could either ask the witness, upon the assumption that the translation is correct, or avoid that subject to be cross examined, if desired.

BY A. R. HARDY:

Q. Dr. Becker-Freyseng, in this document, that is, the letter written to the Reichsfuehrer, signed by Schroder, was it your intention to ask for voluntary experimental subjects?

A. Yes, that was my intention. If you permit, I shall briefly give a few reasons which today too, prove it from this sentence. Perhaps that is a matter for later argumentation. I am not informed on that.

Q. I think we shall wait a bit on that, Doctor. After you had sent this letter, requesting that voluntary human subjects were to be used, did you after that time follow up the sequence of events and determine whether or not the persons used actually were volunteers?

A. In the course of further events I twice concerned myself with the question of whether these persons were volunteers. The first time before the experiments and the second time, after the experiments. Before the experiments, I talked to Professor Beiglböck this question, as I have already testified on direct examination, not for legal reasons did not interest us at the time, but for medical reasons.



Court 1 - Case 1

After the experiment, I talked to Professor Beiglboeck about the question of volunteers when I asked him what kind of prisoners he had obtained and how these prisoners were actually put at his disposal at Dachau and were turned over to him for these experiments.

Q. Let us turn now to the next document, Doctor, which is Document NO-179, Prosecution Exhibit No. 135 found on Page 20 of Document Book No. 5.

A. Yes, I have it.

Q. This is a letter of 28 June 1944 from Grawitz to Himmler including comments by Gebhardt, Gluecks and Nebe on who the experimental subjects should be, and in this I want to call your attention to Paragraph 2 where Grawitz reports the attitude of Gluecks, and therein Gluecks stated: "Referring to the above letter, we report that we have no objections whatsoever to the experiments requested by the Chief of the Medical Service of the Luftwaffe to be conducted at the experimental station RASCHER in the concentration camp Dachau. If possible, Jews or prisoners held in quarantine are to be used."

Does that sound like a good expression of volunteer subjects to you, that is, "Jews or prisoners held in quarantine"?

A. I may say that I saw this letter here during the trial for the first time, that I am not accustomed to the wording of SS agencies and I don't know what this sentence is intended to imply. At any rate, it does not say that people are to be forced to submit to the experiments. Why prisoners were to be taken from quarantine I have no idea at the moment. I do not know I had nothing to do with the matter.

Court 1 - Case 1

Q. Well now, if it is fully understood that you did not see this letter-- the prosecution does not contend that you received a copy of the letter -- but I am now asserting, after all, the evidence is in at length that the experimental subjects were volunteers, that is, the evidence on the part of your defense, and we are now interested in shedding some light on the subject. I am sure that the Tribunal is interested in getting your understanding of the implications of this letter because it deals with those persons who were, in fact, selected to undergo these experiments you sponsored.

So let us forget whether or not you received this letter and just devote your attention to the letter itself and what it points out; and I will ask you if Gluecks' comment doesn't raise a little suspicion in your mind since he suggest the use of Jews or prisoners held in quarantine". Maybe they weren't going to be volunteers and maybe they were.

A. I thank your for admitting the theoretical possibility that it could have been volunteers, but unfortunately I am unable to answer your question because I do not know why SS-Gruppen-Fuehrer Gluecks suggests taking prisoners from quarantine. I had too little contact with conditions in concentration camps to know. Perhaps he meant people who have been through quarantine, so that one could know definitely that they are healthy, but, I don't know that is merely an assumption. I was not consulted and I was given no opportunity to make suggestions.

If Gluecks thought people should be taken who had just been through quarantine, - perhaps - who came from

Court 1 - Case 1

an epidemic district who had been in quarantine, and of whom it was definitely known that they would not become sick in the near future, then this was quite a sensible suggestion from the medical point of view. It must have been clear to SS-Gruppen-Fuehrer Gluecks that for this experiment, which was to last four weeks, we needed healthy people.

But I am unable to say what Gluecks had in mind because I never talked to Gluecks in my life.

THE PRESIDENT: Witness, I am entirely unfamiliar with the German language. Is there any other word in German which might be translated as "quarantine" and also give some other translation?

THE WITNESS: Your Honor, I know of no such second meaning for the word quarantine.

THE PRESIDENT: Very well. Proceed.

BY MR. HARDY:

Q. In other words, Doctor, if you had received a copy of this letter at the end of June, 1944 -- say you had seen a copy of this in June, 1944 -- would you have still gone ahead with the experiments?

A. May I ask for a moment to look at the letter first? I have not studied it as carefully as some of the other documents, since it did not refer to me.

Q. Go right ahead.

A. Against at least two of the facts given here I would have objected. The first is in the statement of SS-Gruppenfuehrer Gluecks that the experiments be carried out at the Experimental Station Rascher. There was never any question of that. After the Nurnberg meeting, I never had anything more to do with Mr. Rascher. Neither I nor

Court 1 - Case 1.

anyone else thought of bringing the sea water experiments into any connection with Mr. Rascher, not even the slightest connection.

The second would be that I would have suggested that it be written to Reichsartzt Dr. Grawitz concerning his view; that gypsies, since they are of a different race, might give unreliable results. This is a very childish statement from the physiological point of view; that would not to be expected at all.

If Prof. Schroeder had seen this letter he would probably have called up the Reichsarzt SS and reminded him that he had promised him to find the experimental subjects under the soldiers unworthy of bearing arms who were sent to concentration camps.

These are the points which I can pick out immediately glance as things which I would have dealt with if I had got this letter; but, I did not get it. But I can say one thing; For me, in 1944, it would not have been clear, any more than today, that our prerequisites for the experiments, that volunteers be used, was in any way doubtful.

Q. Doesn't the third section of this letter, a comment Nebe, create some sort suspicion also, wherein he states, and I quote; "I agree with the proposal to conduct experiments on prisoners of concentration camps in order to evolve a method for making seawater potable. I propose taking for this purpose the asocial gipsy halfbreeds. There are people among them, who, although healthy, are out of the question as regards labor commitment. Regarding these gypsies, I shall shortly make a special proposal to the Reichsfuehrer, but I think it

6230



Court 1 - Case 1

right to select from among these people the necessary number of test subjects. Should the Reichsfuehrer agree to this, I shall list by name the persons to be used."

Now, in fact gipsies were used in the asawater experiments and Nebe says that he still sit up in Berlin and list by name the persons to be used. Now, wouldn't that indicate that there would not be any volunteering here on the part of the subjects?

A. That is a conclusion on your part with which I cannot agree to. Mr. Nebe merely says that he will name the required experimental subjects to the Reichsfuehrer SS. He does not say how he will do that. At the time I would have assumed, quite naturally, that he would have gone to the Camp Auschwitz, which I actually heard of for the first time in 1945; that he would have had forty gipsies volunteer and would have sent this information on to the Reichsfuehrer. According to what we know today it is very easy to find a different interpretation, but at the time it would certainly not have occurred to me.

Q. Well now when did you learn gipsies were used in the experiments?

A. I learned that when Beiglboeck came back from Dachau after the experiments. In my direct examination, I said that I granted the possibility that I might have learned it during the course of the experiments when I agreed to meet Beiglboeck near Vrutstein. And unfortunately came two days too late because of an air raid on a train on which I was traveling. I found a short note from Professor Beiglboeck when I got there and it is possible it said something about gypsies but in any case I remember only that Professor Beiglboeck said something about gipsies only after the experiments were finished and he came back to Berlin.

Q. Well would you have confirmed the experiments if you had known that before, that gipsies would be used?

A. First of all that is again a hypothetical question so that I can give a hypothetical answer; since I did not know before hand. Why should not gipsies volunteer? I don't know what I would have done at the time. I can't say.

Q. Did you see Beiglboeck before the experiments?

A. Whether I saw Beiglboeck before the experiments- yes, of course.

Q. Well did you say anything to Beiglboeck about the experimental subjects?

A. I already said that for purely medical reasons I talked to Beiglboeck about the experimental subjects and I told him I expected to get volunteers and would not have any difficulty from the subjects in carrying out the experiments. I should like to emphasize I had no anticipated legal reasons to say anything about these volunteers but a purely medical cause of the experiments for medical reasons.

Q. Did you say anything to Beiglboeck about making sure that the experimental subjects who were volunteering for the experiments

must be of German nationality?

A. I am sure I did not say that because I never doubted that. I never thought of any other possibility for I don't know how any other possibility could have occurred to me.

Q. Do you know whether or not gypsies were recognized as Germans under the racial law of the Reich?

A. I know that the racial laws of the Reich and the so called Nurnberg racial laws specifically left the question of gypsies open because just the racial affiliation gypsies is a question on which scientists are not quite agreed, but I know that certain gypsies were definitely recognized as full German citizens. I don't know how it was in general.

Q. Do you think that the gypsies were recognized as good Germans Nordic citizens?

A. Nordic Germans, I wouldn't want to reject that. The idea is held that the gypsies come from India and since there is a great many inter-Germanic racial families I consider it quite possible that some people hold the point of view that gypsies are Nordics but I don't know. I am no expert on racial problems.

Q. Of course, if they were good Germanic Nordic citizens they wouldn't have been in a concentration camp, would they?

A. I could not know for certain. I was never in a concentration camp but I have heard since and I have seen the witness Kogen who looks definitely like a Nordic type, and I wouldn't consider it impossible for Nordic gypsies to be in a concentration camp.

Q. Now you have outlined just what you instructed Dr. Seiglbosch to do when he arrived at the concentration camp to commence his experiments?

A. Let me point out I did not say that. I talked to Professor Seiglbosch about it but I didn't give him any orders.

Q. Tell you said that Dr. Seiglbosch--I will read it to you

here in a minute. You said on direct examination that you told Beiglboeck that this was a specific military order and that he was to follow the following instructions; when he received them, and one of the instructions was that there would be no serious damage to health and no fatalities, two; to interrupt the experiments if they became dangerous; and, three, that they wanted clear results from the experiments and also the experimental subject's consent. Now I understood you to say these were the instructions you gave Beiglboeck before he proceeded to Dackau.

A. I am convinced that if you will read over the transcript that you will find that I actually said. Beiglboeck received this order in my presence from my department chief and after we had left the department chief's office and gone back to my office, perhaps it was the next day- I don't know- Professor Beiglboeck asked me whether that order which he had received from the department chief was to be taken as a definite military order and I said "yes", but I didn't give him the order myself. Besides if I had given him the order I would take the responsibility for it today since I consider the order which my department chief gave him quite a permissible order.

Q. Well now was the judgment about whether or not the experimental subjects could continue to tolerate Berka water left up to the experimental subjects or was that left up to the discretion of Dr. Beiglboeck?

A. We at the time did not think of this question from the legal but from the medical point of view and I assume that I may still leave the legal decision to the Tribunal. From the purely medical point of view it is clear that the decision as to whether an experiment is to be broken off depends on the findings of the doctor, as well as on the statements of the subjects. If I may clarify that by an example, it might be that one of the experimental subjects in



the course of the experiment became unconscious: If the man in charge of the experiment wanted to wait until the subject woke up, and said, "Let's stop the experiment now", that would have been too late.

Q. Then actually the conduct of the experiments was up to the discretion of the doctor?

A. I would like to put it like this: The responsibility for the health and life of the experimental subjects was, of course, in the hands of the doctor, and it is quite clear that a doctor like Professor Beiglböck will take into consideration the statements of the subjects, that is, a matter of course to a doctor.

Q. Well then if someone died in these experiments Beiglböck would certainly been held responsible by the Chief of the Medical Service. I am completely convinced of that, because that it would have been a violation of his instructions that no deaths were to be allowed to occur.

Q. Well if a death had occurred would you have felt responsible, in as much as you take full responsibility for the initiation of the experiments?

A. In 1944 I would have had to leave that up to a court martial of the Luftwaffe. I can't judge, Perhaps I might have been indicted too. I don't know.

Q. Would you have expected to have been indicted had a death occurred in these experiments at Dachau?

A. That is a double or triple hypothetical question. I would have expected that if I had been indicted I would have been acquitted.

Q. Doctor, after the completion of these experiments a report was given, in October 1944, in a bunker near the Zoological Garden near Berlin by Dr. Beiglböck. You was present at that meeting?

A. I assume that the meeting was in October, I don't know. I heard it was in September; September or October, I am not sure. At

any rate it was only one meeting. I can remember definitely that Generaloberstabsarzt Schroeder was present, Professor Reiglbeck, of course, was there, Dr. Schaeffer was present, Mr. Berka was present, and representatives of the Navy were present. There were all together about perhaps twenty people. I can't remember any more individuals than those I have just given.

Q. Who presided over the meeting?

A. Generaloberstabsarzt Dr. Schroeder opened the meeting. Then I spoke a few words about the purpose of the experiments. Then Professor Beiglboeck held his lecture. Then after it I believe, Professor Schroeder left, because in this bunker there was a Luftwaffe Hospital and Professor Schroeder had promised to attend an operation which he wanted to perform himself. In the discussion which followed, I presided because I was the referent in charge. But the discussion lasted only about ten minutes and that was the end of it.

Q. Dr. Beiglboeck gave a complete clinical report of the results of the experiments?

A. He gave a report on the clinical course of the experiments, yes.

Q. Did he state what symptoms were apparent as a result of the application of sea-water to the subjects?

A. Yes, I am sure he reported that because that was one of the purposes of the report.

Q. What symptoms did he find prevalent after a certain number of days?

A. In this trial I have heard so much about the symptoms that I am unable to tell you exactly what Professor Beiglboeck said then and what I have read in the meantime but those things Professor Beiglboeck will be able to give you a more definite answer. But, I shall try to tell you what I remember for certain. Professor Beiglboeck explained that the feeling of thirst was much stronger in the group which had drunk sea-water than in the group which had nothing to drink at all and that in the group which had drunk sea-water the people were more restless while the people who drank nothing were slowly more than anything else. It is that I can definitely recall today.

Q. Would the report of the meeting in October contained in Schroeder's affidavit, which is paragraph 6, document NO-474 which is on page 6 of the Document Book 5, the passage is found on page 7. This paragraph 6 reads as follows:

"The experiments were carried out at the Dachau concentration camp by Dr. Beiglboeck, in summer of 1944. In October 1944, Beiglboeck reported on these experiments at a meeting which took place in a bunker near the Zoological Gardens in Berlin. Schroeder, Becker-Freyson, and I were present. It is possible that Dr. Schuster, an Air Force physician who worked at the Luftwaffe Medical Academy in Prague, was also present. Beiglboeck showed those present at the meeting numerous charts of analyses of the urine and blood of the experimental objects who were given only Berka-Lit to drink. Photographs and films were also presented and various groups of experiments were discussed. On the basis of this report, I estimate that 20 to 40 persons were used for these experiments, which were carried out during a period of seven to twelve days. Dr. Beiglboeck also reported that the experiments had resulted in the swelling of the liver and various symptoms. Delirium and mental disturbances also appeared. As a result of this meeting, it was decided that the Berka process was absolutely of no use to the Luftwaffe."

Now, is that a concise and more or less accurate report of what Beiglboeck had to say?

A. No.

Q. What discrepancies do you wish to point out?

A. First of all Dr. Schaefer is perhaps the only person who saw a film. It must have been such a secret knowing that only Dr. Schaefer noticed it. No film was



ever taken. At any rate, I never saw one and there at the  
banker meeting no pictures were shown.

Q. He could have meant by that merely photographs and  
used the expression film.

A. Let me point out first it says - photographs and  
films." Photographs were shown and will be submitted in  
evidence here.

Q. Any other discrepancies you wish to point out?

A. Yes, I want to point out above all the "nervous  
symptoms, the delirium, and the mental disturbances."  
First of all, the nervous symptoms, can mean so many things.  
I don't know what Dr. Schaefer meant by it but he will be  
able to explain that himself. I know nothing about any  
nervous symptoms. It could be, I believe Dr. Seiglboeck  
spoke of a tetanoid picture of symptoms. That is a  
condition in which the muscles are very easily excited if  
one touches a muscle, a muscle knot is formed. That is a  
very nervous thing. If that is called a nervous disorder  
that is possible, but it is a very nervous thing. "Delirium  
supposed fever." The translation is impossible. Possibly  
it might be fever-delirium. I do not know from Professor  
Seiglboeck's report that the subjects had any fever.  
So, I don't know wherefrom they should have gotten  
"fever-delirium." And "mental disturbances", I know only  
that Professor Seiglboeck spoke only of so-called "apathy."  
That is nothing but strong sleepiness and some lack of  
interest to the outside world. That is known from all  
anesthetic and thirst cures that the people prefer to sleep and  
are not interested in anything, just as if a person is tired.  
According to what I know of psychiatry, I would not call that  
a "mental disturbance."

Q. Well, did Dr. Seiglboeck tell you how many people

in the experiments?

A. He said definitely that no one died.

Q. Well, did he tell you what Joseph Sulteing says in his affidavit which is found on page 28 of Document Book 5 wherein he states, and I quote:

A. As far as I know this is not an affidavit. It is a Viennese Police record which is not sworn to.

MR. HARDY: This has been admitted provisionally and to be sworn to and Prosecution has had the same affidavit sworn to and when we introduce our documents formally, the one with the jurate on which contains the same information will be then admitted. The Tribunal had admitted this provisionally pending receipt of the jurate. Therefore we can use it here, doctor. Now, in this document---

A. Thank you for the information. Unfortunately I do not have the document.

DR. TIPS: Might I ask Mr. Hardy to give me the exhibit number of this new document. I know only what one is in the document book.

MR. HARDY: The same number, your Honor, since the affidavit was only sent down for the jurate.

DR. TIPS: Has it already been introduced? Has it already been given an exhibit number?

MR. HARDY: Your Honor, it was last January 16 when I introduced it.

THE PRESIDENT: Yes, I have it here. It seems to be Exhibit No. 139.

MR. HARDY: It was admitted provisionally pending obtaining of jurates from the affiant in Austria. Now this document, in the English copy on page 28. The interpreters will note in the middle of the page the words page 2 of the original in parenthesis. If you will go up towards the

top of the page to "page 2 of the original" in the middle of the page - 6 lines I will start reading where it says: "Professor Seiglboeck came" -----

"Prof. Seiglboeck came with a staff of three Luftwaffe assistants, and the experiments began. As far as I know in various methods; starvation diets to begin with, sea-water and salt diets, salt injections, and so on. The tortures led to enfeebling of the body which resulted in loss of consciousness and, as far as I know, in one death."

Now, did Dr. Seiglboeck mention anything of that nature in his report?

A. No.

Q. Now it says further down here - we skip one sentence and go to the statement beginning "Seiglboeck delivered these so-called troublemakers to the SS, which treated them in the manner customary in the camp."

Did he mention anything about that in his report?

A. No, he said nothing about that and I consider it a perfect lie.

Q. Well, now he says further in this affidavit that will be down 2 - 3 more sentences beginning with "As in all the experimentation stations", that will be 2 sentences after the last sentence, I read: "As in all the experimentation stations, it was Seiglboeck's practice to send some prisoners undermined by the experiments, to the hospital infirmary in order to conceal the number of deaths among the experimental subjects."

Did he call that to your attention?

A. Not only did he not call that to my attention, but at the time I saw the records of these experiments and was able to note that all the subjects with whom he had started were still there at the end of the experiment.

I think that is up to Professor Beiglboeck to present proof of that.

Q. Doctor, did he tell you about the fact that when persons died in the experiments they were put then on stretchers, covered with a white sheet and delivered to the morgue, as testified here to by the witness Viehweg.

A. I think you mean the criminal Viehweg who is charged again for calling himself a doctor illegally. So much for Viehweg. And as for the dead persons whom Viehweg says he saw for the sake of brevity I may refer you again to the case of Professor Beiglboeck and say in his defense because to my own knowledge I can say nothing about those deaths personally who were resurrected later.



Court 1

Q Did Dr. Beiglboeck tell you where the experimental subjects came from?

A I consider that possible. I don't know today where they came from, but I don't know whether Professor Beiglboeck knows, I can't remember.

Q Did he tell you that they came from an other concentration camp other than Dachau?

A I just said that I can't remember that. It's possible that I asked Professor Beiglboeck what kind of subjects he got. It is possible that if Professor Beiglboeck knew that he told me, but in three years since that time I have forgotten again. It may be that he told me.

Q Did he tell you that these volunteers were men who had volunteered for a "special commando"?

A "Specila Commando". No, that was never mentioned.

Q I see. Doctor, in connection with typhus and virus research, did you know of the Typhus and Virus Research Institute in Lemberg, also known as the Lemberg Fleckfieber Institute, the Lemberg Spotted Fever Institute, or the Behring Institute-Lemberg?

A No, I heard of all these Institutes for the first time here. I never heard heard of them heretofore.

Q Do you know whether or not the Lemberg Institute had any connection whatsoever with the Luftwaffe?

A I can neither affirm or deny that. Never heard about it.

Q You don't know anything about the administration of the Lemberg Institute? Whether it was administered by the Luftwaffe or by I.G. Farben?

A I have no idea.

Q I have no further questions, Your Honor.

THE PRESIDENT: Any redirect examination by Defense Counsel?

MR. HARDY: Your Honor, it is my understanding that we are going to call the witness Jaeger at this time.

THE PRESIDENT: I would ask Dr. Steinbauer, is it satisfactory

Court 1

to you to, at this time, call your witness Jaeger?

DR. STEINBAUER: Mr. President, May I call the witness Jaeger at this time?

THE PRESIDENT: The defendant Becker-Freysing is excused from the witness stand temporarily and will resume his place.

The Marshall will summon the witness Rolf Jaeger.

ROLF JAEGER, a witness took the stand and testified as follows:

BY JUDGE SEBRING:

Q You will please hold up your right hand and take the oath.

I swear by God, the Almighty and Omiscient, that I will speak the pure truth and will withhold and add nothing.

( The witness repeated the oath.)

You may seated.

THE PRESIDENT: Counsel may proceed.

BY DR. STEINBAUER:

Q Witness, what is your exact name, where were you born, what is your nationality and what is your present address?

A My name is Dr. Rolf Jaeger. I was born on the 1st of November, 1912, in Graudenz on the Vistula in Eastern Prussia. I am a doctor by profession. I am a German citizen. My present address is Graz-Liebenau, Austria, 721st S.E.P. Hospital.

Q What is your employment there?

A I am an Oberstabsarzt and senior medical officer for S.E.P. units under British command. I am personally directly subordinate to the headquarters of the British troops in Austria. I am also a chief physician of the 721st S.E.P. Hospital.

Q How is it that you know Professor Reiglboeck?

A I met Professor Reiglboeck under the auspices of the adjutant of the Corps Physician in Berlin-Tempelhof about the end of 1943. He was sent to my hospital in Tarvisio in Northern Italy about Easter, 1944, and he was under me from that time on.

Q How long was he your subordinate?

Court 1

A He was my subordinate, until the end of the war.

Q What was his position there?

A He was leading physician of the internal department of my hospital.

Q Do you know whether Beiglboeck had the title "Consulting Physician of the Luftwaffe?"

A No, Professor Beiglboeck was not a consulting physician of the Luftwaffe. I remember, however, that he would suggested as such. From a personal remark of the Generalstabarzt, Dr. Neumanneller I learned that he was proposed at the consulting internist of the Army.

Q Why was he not appointed?

A He was rejected by Generalstabarzt Neumanneller since he did not think he was a good enough soldier - and was "too soft", as he said to me personally.

Q Who then took the position that he was intended for?

A His position was taken by some else who took over the duties of consulting internist. He was not a academic teacher. I cannot remember his name today.

Q Now, what military rank did Beiglboeck have in June of 1944?

A Professor Beiglboeck was an Oberarzt of the reserve at the time, but he was already classified for Stabsarzt at the time when he came to Tarvisio.

Q Can you tell us something about his previous employment in the Luftwaffe?

A He came to us from the Luftwaffe Hospital in Brunswick with a good reputation. I know nothing of his previous work.

Q Your hospital in Tarvisio, was that German territory or was that outside Germany?

A Tarvisio was on Italian soil. The hospital belonged to the Army operating in Italy. The borders were strictly blocked.

Q Did Professor Beiglboeck have any personal connections with higher offices, particularly to the Medical Inspectorate?

Court 1

A No, he did not. I don't believe he wanted any.

Q What can you tell us about his medical activities and his attitude as a physician?

A His medical activities consisted in taking care of the internal department and caring for the patients. My hospital had 1500 beds at that time. 450 approximately belonged to the internal department. To this was attached an infectious ward and a tuberculosis ward, an X-ray department, a clinical laboratory and a department for physical therapy. As a physician Professor Beiglboeck had a very good reputation, not only among his patients but also among the personnel under him and above all among his colleagues. As a man to every one respected him and liked him.

Q Did you have only members of the German Wehrmacht as patients or did you have also foreign patients?

A Not only German members of the armed forces, but also Italian soldiers, and also Poles, Russians, Yugoslavs, Americans and Englishmen. The latter were fliers who had been shot down and some of them in our hospital for months. Professor Beiglboeck made no distinction as to nationality when treating his patients.

Q Did Beiglboeck, during his stay in Italian territory, have touch with the civilian population?

A Yes, very close touch. He had good reputation as a doctor, not only among us, but his reputation got around in the small town of Terziole and, in his free time, he did all to help the poor mountain population. So was often on the road at night which was without danger towards the end of the war because there were partisans in the area.

Q Now, Dr. Jaeger, let us turn to the experiments. Do you know when Beiglboeck was ordered to report to Berlin?

A I cannot give you the date exactly. It was about the second half of June in 1944.

Q In what way was this carried out?

A By a teletyp. message.



Q. Do you recall whether the teletype message contained a reason for this request?

A. No, it merely said that Professor Seiglboeck was to report immediately to the Medical Inspectorate in Berlin.

Q. Did you ask by phone or by telegram what was about here?

A. Yes, I inquired by telephone and I was informed that Professor Seiglboeck was to be assigned to some scientific work; I could learn nothing else.

Q. Now, when Seiglboeck was in Berlin, did he tell you what was going on and ask you to request his return?

A. Yes, he did.

Q. What reason did he give for this request?

A. He explained his wish to be sent back by saying that he did not like to accept the assignment to carry out experiments in a concentration camp and besides, he wanted to come back to the Internal Department of the Hospital and asked me to try to arrange it.

Q. Did you make efforts to have him brought back?

A. Yes, I did, I said that I had entrusted him with the building up of the Internal Department and it was hard for me to get along without him.

Q. Why was this request on your part refused?

A. My request went through official channels to the Adjutant of the Army Surgeon and he had to ask for the release from the Medical Inspectorate. It was rejected and said that the assignment he had to carry out was important.

Q. Did Seiglboeck then tell you once he had asked that the experiments be carried out in Terwisle?

A. Yes.

Q. Would this have been technically possible?

A. Technically, yes.

Q. How so?

A. We had quite a good laboratory and the laboratory workers would have been adequate to carry out the normal experiments.

Q. Why was this then not done?

A. The military situation was such that we needed every bed in the hospital. There was also an order that the borders of the Reich were closed for the return of patients and it would have been difficult to solve the bed question. Immediately after the Invasion, we received a Fuehrer order which again strictly prohibited any return of patients and this order was binding on all Wehrmacht offices.

Q. When Baiglboeck went to Dachau, did he write anything to you or did he write to any of the other doctors about what went on there?

A. Yes, I remember that very well, he wrote to several members of the hospital staff, and in all the letters he said how unhappy he was at Dachau and how much he disliked carrying out the experiments there. I remember before the experiments began, he wrote me personally a letter and asked me again to try to arrange for his return. I tried again, but without success. I myself, of course, was particularly interested in getting him back, because I had assigned him to do this new building.

Q. Dr. Jaeger, you were in fact the medical officer; do you believe that Baiglboeck could have refused to obey this military order?

A. No, I do not believe so. After all, it came from the supreme superior and Professor Baiglboeck was a medical officer. Orders for medical officers were the same as for any other officer and soldier.

Q. Now, Beiglboeck carried out his experiments and after the experiments were over, he came back to Tervisio. What did he report to you about his experiments?

A. About the middle of October, Professor Beiglboeck reported back to me as his disciplinary superior. When I inquired, he told me about his assignment, he told me that he carried out the sea-water experiments as ordered. He also said that before the beginning of the experiment he also performed an experiment on himself. He said that the experimental subjects were gipsies, who had volunteered and that they were granted extra food rations, less work, etc.

Q. Tell me, Dr. Jaeger, did he say anything to you about what his relations were with the experimental subjects, these concentration camp inmates?

A. I had the impression that he had very good relations with his experimental subjects.

Q. Do you think that Dr. Beiglboeck had any reason to conceal the true facts?

A. No, I do not; he under the then existing conditions had no reason to conceal anything from me aside from the fact that I asked him as his superior officer.

Q. Well, Dr. Beiglboeck came back to Tervisio and he came back from a concentration camp; did you ask him what it looked like in a concentration camp?

A. Yes, of course, I as well as the others who heard it were quite astonished that he could not say much about the conditions, he only said that his movements in the concentration camp were restricted and relations with the SS were rather tense.

Q. Now, I want to ask you something else. Do you think Professor Beiglboeck had any personal, scientific or literary interest in these sea-water experiments?

A. No, I do not believe so. On the contrary, as far as I can remember, he was doing scientific work on hepatitis at the time in the clinic and I think he wanted to publish a book on the subject; thus I believe the contrary would be true.

Q. But maybe you think that he did these experiments, as the chief prosecutor said in his opening statement, from a Naziistic point of view in order to torture the enemies of National Socialism.

A. I do not believe that as that would not fit in with his character. I never knew him as a fanatic, his sympathy and heart always belonged to the weak and oppressed, he never refused them aid. I think he was a party member, yes, but if he heard him, one had to have the opposite impression of his ideals; his criticism of party or political measures of the highest agencies indicated that. I don't believe that I can assume that.

Q. Now, let me ask you a last question. You are a physician, a medical officer, and I know of your career; do you consider the problem of such sea-water experiments such as these a superfluous one; do you think they were unnecessary or do you think they were serious experiments and a important problem?

A. Yes, I believe it was an important problem. I may say that I was a parachutist on Crete and know the special dangers of the sea. I was shut in for two days near the coast in Crete and suffered greatly from thirst. After these two days we reached the sea; we were sitting practically in the water and were suffering greatly from thirst, but were unable to drink. On the fourth day we received fresh water from a well. Anyone who has thirst practically sitting in the water will realize how important



the problem is.

Q. Did you have ship-wrecked people who suffered from thirst at that time?

A. Yes, there were a number of people who flew to Greece who crashed and I saw quite a few people who had managed to reach the land and who had been fished out of the water. I saw the conditions and the greatest problem for all these people was the water and their great thirst.

Q. No further questions.

THE PRESIDENT: Are there any further questions to be propounded to the witness by Defense counsel? If not, the Prosecution may cross examine.

CROSS EXAMINATION

BY MR. ELLY:

Q. What was the specific date when Dr. Seiglboeck went to Berlin to report to the Medical Inspectorate?

A. I said before that I don't know the exact date; I believe it was the second half of June 1944.

Q. And when did he return?

A. As far as I can remember, that was about October, the middle of October.

Q. When did he tell you that he had an assignment to experiment on concentration camp inmates at Dachau?

A. He told me that in a letter.

Q. What was your interest in this matter?

A. In his carrying out the experiments?

A. Yes.

A. No, I had no interest in them. I wanted him as an internist for my hospital for medical reasons and because we were building a new building.

Q. Was Dr. Seiglboeck a man of good character and reputation?

A. Oh, yes, I may well say so.

Q. Did you ever hear of the Fuehrer Order of Secrecy?

A. For this experiment?

Q. The Fuehrer Order of Secrecy in Germany, not for this experiment?

A. No, I never heard of it.

Q. Do you know what "Secret" means?

A. Of course.

Q. Do you know what "Top Secret" means?

A. Yes, I know what that is.

Q. If you were given a secret order, would you go and tell your friends about it, or would you consider that a breach of your allegiance to the Fuehrer and to the Nazi Government?

A. That depends. I do not know.....

Q. Do you think that Beiglboeck was being very considerate and very loyal when he informed you about matters which were "Top Secret", a man that had nothing to do with the problem?

A. Whether that was loyal of Professor Beiglboeck; was that your question?

Q. Well, wasn't it rather unusual?

A. No, I don't believe so, I don't think there was any reason for secrecy in this matter.

Q. Well, for your information, Doctor, the matter was classified "Top Secret". Don't you feel Dr. Beiglboeck was breaching his allegiance when he informed you, an outsider, about his proposed work at the Dachau concentration camp?

A. I don't believe so, otherwise he would probably have treated it as such.

Q. Now, you say that Dr. Beiglboeck enjoyed a cordial

relationship with the experiment subjects; how do you know that?

A. I know that because he told me a great deal about their existence in his series of experiments; He said that they came to him with their personal troubles, he said that they all spoke German. Since I knew him personally, I believe that he had close contact with his experimental subjects.

Q. You know that only from Seiglobeck himself, a man who had breached an oath in giving you information about a Top Secret project? Is that right?

A. Professor Beiglboeck, yes.

Q. You said that Dr. Beiglboeck didn't want to conduct these experiments at the Dachau concentration camp. Did he tell you why he had misgivings for not wanting to conduct these experiments at the Dachau concentration camp?

A. That was even in a letter which has been mentioned before, that he didn't like to carry out these experiments in the concentration camp; I gathered that from his mentality.

Q. Why didn't he like to do that, do you know? Was it because it was a criminal act or something? What was his objection to it?

A. I can't read his mind as well as that but I don't think that he liked the concentration camps. He didn't like working there.

Q. What was your rank, doctor?

A. Oberstabsarzt.

Q. In the Luftwaffe?

A. Yes, in the Luftwaffe.

Q. When did you join the Party?

A. I was an active officer; I was not in the Party.

Q. You never joined the Nazi Party?

A. No.

Q. Yet you were an officer in the Luftwaffe?

A. I was an officer in the Luftwaffe, yes.

Q. How do you spell your last name, doctor?

A. J-B-a-g-e-r.

Q. Did you ever hear of the experiments conducted for the decontamination of water?

A. Yes, I heard about that. Of course, the decontamination.

Q. What did you hear about it?

A. Not the removing of salt, but the decontamination?

Q. That is right.

A. Decontamination?

Q. Yes, what did you hear about that?



A. Nothing especially, only what everybody knew, that is a filter to remove bacteria from water.

Q. Did you ever hear of experiments conducted by the "Reichsanstalt"?

A. No, I didn't.

Q. You never heard of that?

A. What "Reichsanstalt"?

Q. "Reichsanstalt" is a German word. I will have to ask the interpreter to read it. It is spelled Wasser and Luftgeu.

A. No, I never heard of that.

Q. If your name appears in a document concerning experiments conducted on 150 human beings to determine the value of certain decontamination agents in the decontamination of water, would you be inclined to think that that was another Dr. Jaeger?

A. Yes, I think that must have been somebody else.

MR. HARDY: No further questions, Your Honor.

THE PRESIDENT: Is there any further examination by counsel for defendant Beiglboeck. There being no further questions to be propounded to the witness, the witness Jaeger will be excused.

The defendant Becker-Freyseng will resume the witness stand.

HERMANN BECKER-FREYSENG - Resumed

RE-DIRECT EXAMINATION

BY DR. TIPP:

Q. Dr. Becker, the direct examination and the cross examination have been so exhaustive that I do not believe I shall have to ask many more questions. However, I want to clarify first of all one question to you that Dr. Hardy broached this morning, the question of the so-called "Super-Referents". Did you actually, among the Referents, of whom there were twenty-five in the Medical Inspectorate, have a position that put you above the other Referents?

A. I took this statement of Mr. Hardy as a captatio benevolentiae, and I don't think he meant anything of that nature by it. At least I

was one of twenty-four Referents. I did not have the highest military rank among them. There were some lieutenant colonels there. There were some older men there. There were experienced university professors. I did not have any particularly high position.

Q. Now, according to the evidence put in during this trial it would seem as if the research work in general occupied a very pre-eminent position within the office of the Chief of the Medical Inspectorate of the Luftwaffe. It would seem as if the whole office concerned itself with research. Now just what was the actual situation; what importance did research occupy within the entire work of the office of the Chief of the Medical Inspectorate?

A. I am unfortunately unable to tell you what percentage of the correspondence of the office referred to research, but I can point out one thing. First of all, my Referat was one out of twenty-four, and within my Referat research formed only a part of my work, perhaps twenty percent, fifteen percent, certainly no more. Of course, it was a very important part of my work, but the other parts were just as important.

Q. Then if I understand you correctly, you say that your work with research and research assignments was only a fractional part of all the work involved in the office of the Chief of the Medical Inspectorate?

A. Of the whole office, yes, certainly.

Q. Now, witness, please turn once again to Document NO-306. This is Exhibit No. 296 and is in Prosecution Document Book No. 12, on page 77. Unfortunately I do not have the English page - it is page 74 in the English document book. We have already discussed this document three times. Mr. Hardy brought it up twice and I must unfortunately refer to it again. But I have only one question, witness. Mr. Hardy concluded from this document, which is a letter of 9 June 1943 from Professor Rose to Professor Haagen. The last sentence reads:

"It will take some time until '2-F' produces its new research order, as Anthony is on a duty trip for several weeks." Mr. Hardy interpreted this sentence to mean that this research assignment was put to one side

because the man was not present who issued the orders in research assignments. Now in one sentence, witness, can you tell us why this research assignment was put aside while Professor Anthony was absent on an official trip?

A. That is very simple. Because the Referent was not there who had to do the technical final work on the assignment, and because it was not an urgent matter that had to be settled overnight and it was not given to me, and because even as assistant Referent I had so much to do that I didn't look for any additional work. I don't think anybody does. And so the matter was left until Anthony came back.

Q. Now, regarding the question of research assignments, which we have been kicking around long enough, now one more question, witness. You said in cross examination that the scientist applies to your office and you dictated the research assignment. I believe that is rather a telescoping of what took place, but please tell us just exactly how an application for a research assignment was handled in the office of the Chief of the Medical Inspectorate.

A. I shall try to answer this question very briefly. For the sake of simplicity let us assume that it is an aviation medicine assignment. The application from Professor John Doe, whom Mr. Hardy mentioned this morning, came first of all to the Chief of Staff, who decided whether this letter would be submitted to the Chief of the Medical Service or sent direct to the department chief, and he made some notation in the margin - either, "please consult", or "can be granted", or "inquire of such and such a person" - then the letter came to the department chief, who also signed it and put a note in the margin for me, and then I got the letter and saw what my two superiors had already said about it. I either reported to the department chief about it, since it was an aviation medicine assignment. I might have suggested that Professor Strughold or someone else be consulted, and if the department chief approved the application I took the documents over to the budget Referent, who was responsible for finances. I got his approval, and he



also signed it, and after I had all of this together I dictated to my stenographer the draft of a research assignment which I submitted to my department chief, and he alone, or together with me, gave it to the Chief of Staff and the Chief of the Medical Service for signature.

Q. In other words, you did not actually dictate something which would be in the nature of an order, but your work was of a purely technical nature, was it not?

A. Yes, I believe I have explained that sufficiently. I was never a research dictator.

Q. Mr. Hardy, who has flattered you in certain ways here, has also charged you with being in charge of the aviation medicine research institutes. Now, after what Dr. Wertz has testified here, I do not believe we have to go into that any further, but like Mr. Hardy I should like to ask a hypothetical question. If the Referent had been in charge of the aviation medicine research (of course they were not), would that have been a military subordination in the sense of subordinate or superior in the military sense?

A. I can answer this question only by leading it ad absurdum. The heads of our aviation medicine institutes were: Professor Strughold with the rank of colonel. The office was that of a brigadier general. Professor Wertz had the rank of lieutenant colonel, and the office had the rank of colonel. Professor Buchner, head of the Institute for Aviation Medical Pathology, also held the rank of lieutenant colonel, and the office was also that of a colonel. Professor Knothe, commander of the Training Section at Jüterbog, was first a major and at the end lieutenant colonel. That was also a colonel's position. Only the head of the Institute for Aviation Medicine in Hamburg was a Stabsarzt (captain). I don't think it is customary for any army in the world to have all colonels under the command of a captain, and I am convinced that if I had tried to give orders in the military sense to Oberstarzt Professor Strughold or Oberfeldarzt Professor Wertz - all old enough to be my father - they would have been quite astonished.



Q That then answers my hypothetical question. Now, I believe that we do not need to enter into any further discussions of the infamous file note # 55, and the Referat numbers. I think they are clear enough. Moreover, an affidavit is going to be put in regarding this matter later. We do not have to discuss your position in the Referat any longer. Now one question regarding the low-pressure chamber. You know, witness, that the mobile low-pressure chamber used by the DWL at Weilerhof and taken to Dachau and used there in the course of the experiments has played a large role here. I don't know whether it was brought out that this low-pressure chamber was made subordinate to the Referat for Aviation Medicine.

A You again are putting a unit under me which was never under me. I must object to that. I couldn't give any orders to the man in charge of a mobile low-pressure chamber unit.

Q I wasn't referring to when the unit was made subordinate to you, but when the low-pressure chamber itself was put under the Referat for Aviation Medicine?

A That was at the end of July or the beginning of August 1942, when this authorized low-pressure chamber unit was taken over by Stabsarzt Kullerman and his crew.

Q This then was after the conclusion of the Dachau experiments for rescue from high altitude?

A According to what I have heard here, these experiments were completed at the end of June at the latest.

Q Something else in this matter, witness. You said in cross-examination that when the mobile low-pressure chamber units were used you said that "we saw to it that those authorized low-pressure chambers were used." Now, please explain the use of this word "we", so that we can avoid the impression that you were some sort of a supervisor?

A That is an inaccuracy committed by everyone when speaking of this office. The low-pressure chambers were dealt with in my Referat. Orders were issued by my department chief or the Chief of Staff.

Q Regarding the high-altitude experiments, Witness, I have only one question. Since Mr. Hardy has asked you in cross-examination about Dr. Kottenhoff, tell me, how long was Dr. Kottenhoff in your Referat?

A I have already said that in the summer of 1944 Dr. Kottenhoff was there for a very brief time. He had just given up one position and was waiting to be reassigned again, and in the meantime presumably nobody knew what to do with him, and for perhaps a week or two or three weeks, perhaps less, he was in Berlin and was in the office of the Chief of the Medical Services, and since he was interested in Aviation Medicine, he was in my Referat as a guest, I might say, for a few days.

Q Now, Witness, one question regarding the freezing experiments. You said in regard to this as well as altitude, that Professor Hippke carried out a great deal of the work in this field on his own initiative and did so without informing the competent Referent of this. Now, the question arises, could Hippke do this -- did he have any knowledge in the field of aviation medicine so that he could reach autonomous decisions?

A Professor Hippke had not conducted any aviation medical research himself but had taken an intensive interest in aviation medicine, and, no doubt, had knowledge in this field which was far above the normal average of a doctor.

Q Then, if I understand you correctly, you mean to say that fundamental questions of this sort he could decide without consulting a specialist.

A Doubtless.

Q Then, witness, please take up the freezing document book. First of all, Document NO-268, page 143 in the German version of the document book on freezing. It is a letter of 19 February 1943, from the Inspector of the Medical Service of the Luftwaffe, to the Reichs-Luftfahrt-SS, signed by Hippke. On this document there is the famous file note 55 and then in parentheses the registry number 2115. The

said in cross-examination, Witness, that this document was not worked on by you. Mr. Hardy asked you a few things about this letter, but regarding the question of the freezing experiments I should like to ask you a few more questions, Witness. How does it happen that despite the fact that you say you are not a specialist in freezing matters, you could make a perfectly clear, understandable statement about these freezing problems? Could you make these statements from specialized experience in the field of cold, or on the basis of experience of a purely general nature that you had as a scientist, research worker, and experimenter.

A. I never performed any cold experiment either on animals or on myself or on another human being. I, of course, read some papers on the subject, but the statement which I have made here refers generally to a careful study of the document and to my general medical training.

Q. Then you made statements on the basis of purely general information which you had as a doctor, supported by a study of the documents and by information on research in general?

A. Yes, that is right.

Q. On page 22 of the document book on freezing, document NO 286, Exhibit 66, there is a word which Mr. Hardy put to you -- Document NO 286 -- a letter to the Reichsfuehrer-SS from the Reich Air Minister, 8 October 1942. Do you have the document?

A. That is the one you were just talking about? Yes, I have it.

Q. In this document please turn to the last paragraph on the first page, where Anthony writes: "The research records and an extensive report will be presented to the Reichsfuehrer-SS by Stabsarzt Dr. Rescher."

A. I say contained that the extensive report mentioned here is the report that Professor H. H. Rescher gave in Nurnberg. May I ask you whether this opinion of Mr. Hardy is correct, or just what is the correct name mentioned?

A. As far as I remember, in the answer which I gave Mr. Hardy I said that one of the next documents shows that what Holzlochner said at the Nurnberg meeting was the part of this report which could be made public as top secret. According to what I know today, this extensive report was the one which Professor Holzlochner, Dr. Finkel, and Rascher signed. It was sent by Rascher to Himmler as top secret with a personal letter, and was certainly not what Professor Holzlochner about three weeks later told the people assembled at Nurnberg.



Q In your direct examination you have already stated that this extensive report, so far as you know, did not go to the office of the Chief of the Medical Inspectorate of the Luftwaffe, and that, at any rate, you never saw the report in the office.

A That's what I said, yes.

Q Now, the last question regarding the freezing experiments, Witness. Very surprisingly, the Prosecutor stated here for the first time, that the method of rapid rewarming was not introduced into practice in the German Wehrmacht. This statement surprised me greatly, since I found no document to this effect, nor did I hear anything orally to that effect. Now tell us, witness, was this method actually introduced in the German Wehrmacht, and if so, when?

A My positive knowledge about this introduction is as follows: First of all, I knew that in the course of the winter of 1942-1943, instructions for medical officers were issued advocating slowest ordering, quick rewarming as the only method for treatment after freezing. Secondly, every German soldier in the East or the North received a memorandum on his pay book about what to do for cold and treatment of frozen persons. Also, I knew that the Medical Sea Distress Stations, in their motor boats, life boats, had arrangements for using the hot water which comes out of the motor after cooling the motor, for the treatment of frozen persons. But I believe that can be proved by an affidavit from a sea distress doctor.

Q Then the final question on cold, which you can answer with one sentence, Witness. In your direct examination you said that rapid rewarming had been discussed at great length, and then Mr. Herdy brought the discovery of a Russian doctor from the year 1880, I believe, to your attention and asked you why these experiments by Holzhauer at Dachen were necessary in view of that. Can you say something to that?

A These experiments — specifically Holzhauer's experiments — on quick rewarming, where, in Holzhauer's own words, no experimental

subject suffered any harm or was endangered, were necessary because in spite of the experiments of the Russian Doctor, Lopezinsky in 1860, and in spite of numerous animal experiments, and in spite of some isolated observations in practice, no one could decide against slow thawing, which had been used for thousands of years for freezing, and to change around completely and do exactly the opposite — exactly what had always been considered the greatest danger — that is, quick thawing.

Q Mr. President, I have a few questions regarding the next subject, but I think this would be a good time to break off.

THE PRESIDENT: The Tribunal will now be in recess until 9:30 o'clock tomorrow morning.

(A recess was taken until 0930 hours 29 May 1947.)

Official Transcript of the American Military  
Tribunal I in the matter of the United States  
of America against Karl Brandt, et al,  
defendants, sitting at Nurnberg, Germany,  
on 29 May 1947, 0930 hours, Justice Beals presiding.

THE MARSHAL: Persons in the court room will please find their seats.

The Honorable, the Judges of Military Tribunal I, Military Tribunal  
I is now in session. God save the United States of America and this  
honorable Tribunal. There will be order in the court.

THE PRESIDENT: Mr. Marshal, will you ascertain that all the defendants  
are present in court.

THE MARSHAL: May it please your Honor, the defendants are all  
present in the court.

THE PRESIDENT: The Secretary General will note for the record the  
presence of all defendants in court.

Counsel may proceed.

BECKER-FREISENG - Resumed

REDIRECT EXAMINATION - Continued

BY DR. TIPP

Q Dr. Becker, yesterday we concluded our discussion of the freezing  
problem. The next charge of the prosecution against you is the typhus  
experiments. However, I believe that this problem has been discussed  
already at such great length, along with its file number, etc., that we  
need not concern ourselves with it. I believe that we can leave that  
well to the decision of the Tribunal.

I come now to the next charge against you; namely, that sea water  
problem, and here I have a question to put to you. In the direct exami-  
nation you explained what part of the responsibility you are willing  
to accept for the sea water experiments and explained this again to  
Mr. Hardy in the cross examination. Nevertheless, Mr. Hardy continued  
to speak of your complete responsibility for the sea water experiments.  
Will you please, in order to clarify this point, again state to what  
extent you feel yourself responsible for these experiments on the basis  
of your official position?

A I think my responsibility for these experiments lies in the fact of my giving my department chief the necessary documentation and data in order for him to arrive at decisions regarding the necessity of these experiments and regarding the conditions under which they were to be carried out. Further, regarding the qualifications and personality of the man conducting the experiments Professor Baiglboeck. I believe these are the three points with which I was actively concerned and I was then, and still am, ready to accept the responsibility to that extent.

Q That then is the responsibility which you, in your position as referent, had to bear and you took this responsibility within the office, vis-a-vis your superior at that time?

A Yes.

Q And thus do not take the full responsibility for these experiments -- for the carrying out of them?

A I believe I can refer to what my chief at that time, Professor Schroeder himself, said here in the stand.

Q Witness, another matter in the sea water problem. In the direct and cross examination you explained that the Berkatit method, if used in practice, you considered to be very dangerous. However, experiments with Berkatit you considered to be absolutely without danger. This might be an important point in the decision regarding this matter and I want to ask you what the difference is between the use of Berkatit, on the one hand, in practice and, on the other, in experiments?

A Berkatit is a chemical which conceals the salt content of sea water and seems to make at least a potable liquid of sea water. In this way the person suffering from shipwreck is induced to drink a certain amount of this water and thus hopes to allay his thirst. However, since Berkatit does not change or lessen the salt content of sea water the thirst is not allayed, but subsequently becomes all the more severe. Thus, the man will again drink sea water, probably this time will drink



more of it, and so gradually this will increase. He will drink more and more, become more and more thirsty, and in consequence, lose more body water. Above all, because single doses of more than 300 cc bring about diarrhea and, in this way, one can foresee without being a great prophet that a serious condition will develop. That is what happens when Berkatit is actually used in practice. In an experiment, I can determine exactly the total amount of the water treated with Berkatit, that is to be consumed in one day by the experimental subject. I can determine how much he has to drink in any single dose, and the decisive factor is that the experiment can, at any moment, be interrupted for medical reasons.

Q Then, if I understood you correctly, you see the danger in practice in the fact that a man in a serious case of sea distress — shipwreck — will drink too much sea water mixed with Berkatit? That will be dangerous to him, whereas, in the experiment, the amount that he consumes is determined by the physician and kept within proper limits.

A It can so be summarized, yes.

Court No. 1

Q.- Another question in this matter, Mr. Hardy asked you whether you agreed that a person could die from drinking sea water and you then answered briefly and precisely. "You can die of anything". Perhaps, however, the deduction could be drawn from this statement that you counted on the cases of fatality in the sea water experiment? Perhaps you could elucidate your statement, "You can die of anything."

A.- At that time I was referring in my thought to a passage in my direct examination when I explained that the toxic effects of any substance depend on the dose in which that substance is consumed. That is a most primitive rule of toxicology and I simply wanted to say in that statement of mine that you can kill a person by feeding him sea water if you want to but, of course, you can also feed him pure oxygen if you want to, or too much sugar or any other substance and you can arrange it that it will be dangerous if you wish to.

Q.- Then, you meant, that in general it depends on the amount of the substance consumed and you say that any substance which is consumed in too great doses can be fatal?

A.- Yes.

Q.- But you didn't want to say that such doses were used in the experiments as could lead to death?

A.- That is right. I wanted to say exactly the opposite-- namely, that in the experiment the doses were such that it was a certainty that deaths would not occur.

Q.- Then, in conclusion, witness, a last question. The prosecutor repeatedly asked you about documents regarding which he assumed that they must have reached the Medical Inspectorate and must be in the files there. For example, the concluding reports by Hozlschner, Rascher and Finke re-

Court No. 1

garding the freezing experiments ; you denied that you had ever seen this report and a large number of others. Therefore, I should like to ask you, do you know what happened to the files of the Chief Medical Inspector of the Luftwaffe ?

A.- Our registry office was in Harzburg in the Harz Mountains whence it was transferred in February from Berlin, whereas I stayed in Berlin until the middle of April and then, with the rest of this small staff of mine, went to the Tyrol where at the end of May we were taken prisoner.

Q.- Now, what happened to these Harzburg files and the registry office of the Medical Inspector ?

A.- In the first half of April the office was taken by American troops. In this way the files certainly fell into American hands since later when I was at the Aero-Medical Center in Heidelberg, I received a number of these files to be worked on by me for the Aero-Medical Center.

Q.- Witness, among the documents put in evidence in this trial have you seen any documents that originated from the files of the Medical Inspectorate, that is, used for the prosecution.

A.- No.

Dr. TIFF : No further questions.

THE PRESIDENT : Any questions to be propounded to this witness by any defense counsel ?

BY DR. SAUTER (Defense counsel for the defendant Ruff and appearing also for defendant Rosenberg) :

Q.- Witness, yesterday and the day before you went into the experiments with the low-pressure chamber at great length. However, a few points must yet be clarified in this matter. You said yesterday -- or maybe it was the day before

Court No. 1

yesterday -- that when these experiments began with the low pressure chamber in Dachau in 1942 they had been preceded by other experiments which were also to clarify the problem for rescue from great altitudes -- experiments by Dr. Lutz, you said, Dr. Clemann and Dr. Benzinger. These experiments, you said, were carried out above 12,000 meters and there were reports on them but you weren't able to say whether these reports on the preceding experiments were already available at the time of the Dachau experiment or not. I should like to take my point of departure from those statements of yours and ask a few questions. You mentioned the names of Doctors Lutz, Clemann and Benzinger.

A.- I believe there was a little linguistic misunderstanding here. I do not remember having mentioned Dr. Lutz in this connection. At any rate, I was thinking of the name Luft, who worked with Clemann on these problems. However, these experiments of Luft were made in 1942 and 1943. Clemann had worked on this subject before alone.

Q.- Then let me ask you something regarding this. In these experiments with Dr. Luft are you thinking of the experiments which are carried out by the experimenter with white mice, instead of people.

A.- Those are the experiments that Lutz carried out. He carried them out with white mice.

Q.- But the experiments you were thinking of were different experiments?

A.- The Luft experiments took certainly place after the Dachau experiments.

Q.- And what about the Lutz experiments? Were they before the Dachau experiments, and when I say Dachau experiments I am referring to the experiments Dr. Rosenberg carried out on Dr. Ruff's authority. Now the Lutz experi-



Court No. 1

nents were white mice instead of experimental persons. Were they before or after the Dachau experiments?

A.- I can't answer that from my own precise knowledge but only on the basis of the documents and from the documents it can be seen that apparently these two experimental series were carried out more or less simultaneously. I believe that Romber mentions in his report that the studies of Lutz were concluded only after his work.

Q.- This is document 402, I believe, the concluding report by Doctors Ruff and Romberg which came out after the experiments were concluded and in this report there is mentioned, if you remember, the fact that through Lutz's experiment the problem of rescue from great heights had not been solved yet. Do you remember that passage in the concluding report of Ruff and Romberg?

A.- That is certainly so. I can remember the Lutz report to some extent.

Q.- Dr. Becker, is it still your opinion today that Lutz's experiments with white mice did not solve yet, the problem of rescue from great altitudes? Is that still your personal opinion as an expert and specialist?

A.- That is not only my personal opinion but the opinion of scientists in general.

Q.- Do you remember that after this report of Dr. Lutz's it was ascertained through further experiments, particularly through Ruff's and Romberg's experiments, that the conclusions and results to which Lutz had come were actually wrong--namely, in the following respect. In this report which you just mentioned Dr. Lutz -- and I am asking you if this is so -- comes to the conclusion that rescue from great altitudes is possible only up to the altitude of 15,000 meters to which it is true, Dr. Lutz adds. "So far as that can be ascertained

Court No. 1

from animal experiments." Then other experiments went to much greater heights and it was seen that rescue was possible from these heights also. Is that correct?

A.- Yes. I can corroborate that because in 1944 I, as a referent, concerned myself with this problem but I must correct you to this extent. Lutz's conclusions reached with his white mice were certainly correct. However, there is a difference between a white mouse and a human being in such small animals are very narrow channels and thus present different conditions for absorbing and taking care of air pressure or pressure in general and are thus different from what results in cases of larger air passages such as are found in human beings.

Q.- Then I think you are trying to say, Dr. Becker, that Dr. Lutz's experiments did not solve the problem of rescue from great altitudes -- at least did not solve it for human beings. Is that so?

A. Yes, that opinion is correct.

Q. Now, how about the experiments carried on by the other two men I mentioned previously, namely, Drs. Giamann and Benzingor. In your opinion, was the problem of rescue from great altitudes solved completely by the experiments of Drs. Giamann and Benzingor, or was the problem not yet solved by these experiments in the spring of 1942?

A. Let me refer to what Ruff explained from the witness stand regarding this whole problem, and say that within the framework of this problem as a whole there were two main questions. One question was, how does a man stand explosive decompression at all if he is in a pressure cabin in a balloon or in an airplane? There is in this chamber, first of all, a pressure of 3,000 or 8,000 meters, let us say. The airplane, however, is at an altitude of 15,000 or 20,000 meters, and suddenly the cabin is burst. Now, the first question is, what happens to the human being when all of a sudden this explosive decompression takes place? Giamann and Benzingor concerned themselves with this problem of explosive decompression. Today I cannot say without documentation just at what date the various reports that they issued on this problem came out; but even on the assumption that these experiments were concluded before Ruff's and Benzingor's experiments began, the second main problem or question would still not have been solved, namely, how a human being, when he has survived explosive decompression, can be brought down from a great altitude to lower altitudes and what happens to him. And this second question was, so far as I know, the problem which formed the basis for Ruff's and Benzingor's work.

Q. The, Dr. Becker, in order to state this perfectly clearly, you say -- and if I err, please correct me -- there are two problems to be solved. One is the problem of explosive de-compression, namely, the problem resulting when the pressure cabin in an airplane bursts at a great altitude; and this fact is simulated in the experiment. Thus, the experiment is designed to discover how a human being reacts to this sudden reduction in pressure. That is the problem of explosive

decompression.

Now, if I understood you correctly, Doctors Glismann and Benzinger concerned themselves primarily with this problem, in their experiments.

Then comes the second problem, the problem of how the person who has been subjected to explosive decompression, and has survived it, can be brought down from this great altitude to the ground without injury? As you have said, Doctors Glismann and Benzinger did not solve this problem, and this problem was the main concern of Drs. Ruff and Remberg; this was the problem they were to solve. Is that correct, so far as I as a layman can understand this matter?

A. Yes, you understood me completely. I could merely add two supplementary details: First, that Doctors Ruff and Remberg also concerned themselves with the problem of explosive decompression in experiments on themselves. I myself saw such experiments performed by Ruff and Remberg and even took part in them to a very small extent.

The second addition I should like to make is that as I have already said, I do not know when Benzinger's concluding reports were published. It might have been before the Dachau experiments. I am inclined to think it was later, but if this question is very important, you could check up in Heidelberg as to just when these reports did appear. The reports are there.

Q. But Benzinger's and Glismann's report did not concern itself with this second problem at all; that was reserved to Doctors Ruff and Remberg.

A. Right.

Q. Witness, so that you do not commit perjury, let me remind you of something. Doctors Benzinger and Glismann did not carry on simply explosive decompression experiments, of which we have just spoken, but also experiments of a different nature, to wit, experiments involving a "rescue dive", another specialized term. This is an experiment in which the flier, staying in his plane, in case of danger, descends at great speed from a great altitude to a lower altitude, whereas in



Ruff's and Romberg's experiments it is thought that the flier does not descend in the plane but leaves the plane and descends by parachute. Did you know that Dr. Benzinger, I believe, also carried out experiments of this sort, and can you state that through this second type of experiment carried out by Benzinger the problem which Ruff and Romberg were trying to solve was still not solved but still had to be solved? Is that so?

A. I must give you three answers to this question. First, only Benzinger and not Cismann carried out these experiments. Secondly, Benzinger's idea was the following: If a man experiences explosive decompression, let us say at 19 kilometers, but the airplane is still maneuverable, the flier can still be expected to go through whatever maneuvers are necessary to bring his plane down to a lower altitude in a power dive, or you have to create a completely automatic mechanism which, independently of this sudden change in pressure, automatically and without the flier's having to do anything to manipulate it, is capable of bringing the plane down to a lower altitude.

The medical question involved was: At the height of 19 kilometers, in this specific case, how long does a flier remain capable of action? That is an entirely different problem from the problem that Doctors Ruff and Romberg clarified.

Now I come to my third answer. Through these special investigations of Benzinger's, the problem that Ruff and Romberg dealt with was not clarified.

Q. And I believe that is because in Benzinger's experiments the airplane, particularly the cabin, is still intact and can still be steered, whereas in Ruff's and Romberg's experiments the flier left the plane and descended outside the plane. Is that so.

A. Yes, that is so.

Q. Dr. Becker, it has been alleged that parachute descents from airplanes above 15,000 feet -- I repeat, "feet" -- were not undertaken in practice. Now, in order to clear this matter up, I should like to

ask you the following. Do you know that even several years before the Second World War an Italian, I believe his name was Fetsi, ascended with a stratosphere plane without pressure cabin, only with a pressurized suit, and he did this in order to make the plane lighter -- to 17,000 or 18,000 meters? This, as I say, was several years before the second World War. Did you know that?

A. Of course I did. That is the recognized altitude record with airplanes to date. This was the Italian Colonel by the name of Fetsi, from the Italian Air Force Research Institute near Rome, in Guidonia. I believe this world record was set in 1937.

Q. These were altitudes between 17,000 and 18,000 meters?

A. I believe that the recognized altitude was 17,500, but I am not sure. At least over 17,000.

Q Dr. Becker, do you know that in other ways such greater heights have been reached, heights of as much as 24,000 meters, at which the human being survived?

A Yes. The experiments were carried out several times. Once at the beginning or the middle of the thirties, two American Captains, I believe Orville Anderson and Albert Stevens, in the American stratosphere balloon Explorer II, reached a height of 17,200 meters; some time later the Swiss or Belgian Professor Piccard with his assistant, Dr. Kuepfer or Knoopfer, or some such name, went with his stratosphere balloon to a height of some -- what more than 24,000 meters without anything happening to them, but, of course, this was in a pressurized cabin.

Q Do you know, Doctor, that in the period that followed, these altitudes were even exceeded? I seem to remember a case where an altitude of as much as 26,000 meters was attained. I don't want to tell you the name for the moment. Perhaps you can remember the name yourself. I should prefer that.

A I don't know that 26 kilometers was actually reached, but from my activities as a Referent I know that the German Research Institute for Gliding in Airwing near Salzburg, under the direction of the well-known aero-dynamic expert and aviation research man, Professor Georgij, developed an airplane, or rather was in the course of developing it, and this plane was intended to reach an altitude of 26,000 meters. However, I don't know whether the plane actually ever flew. That was at the end of 1944.

Q Now, Dr. Becker, when you reflect on Ruff's and Romberg's experiments, do you agree with me when I say that on the basis of these examples, an urgent necessity existed in the year 1942 for solving the problem of rescue from great altitudes, at least altitudes as high as 20 or 21 kilometers; do you as a specialist agree with me in that assertion or do you not?

A I am entirely in accord with you, Dr. Sauter.

Q Then Dr. Becker, I want to ask you a few questions about this low-pressure chamber. Do you know who delivered these low-pressure chambers?

A Yes, I do.

Q Who?

A They were all delivered by the I.G. Zeiss firm in Frankfurt on the Main.

Q Do you know whether the chambers were delivered completely ready for use, or were the chambers when they were delivered not yet ready for use, and, if so, what was lacking in them?

A I don't know what you are driving at.

Q I said that simply because perhaps since I don't know what you are driving at my answer may be a little aside from the point. Well, for one thing the firm didn't itself manufacture the pumps but bought them from other firms. In addition the oxygen equipment was not manufactured and not entirely installed by this firm, and above all the inter-com system, that is, the telephone system; these pieces of equipment were usually built into the chamber later by Luftwaffe units.

Q Who built them in? Were they not built in, on the basis of orders from the Medical Inspectorate, by a technical department of the DVL — that is, the German Research Institute for Aviation — because that technical department of the DVL had the necessary technicians available, always on orders from the Medical Inspectorate, that is?

A Yes, that is right, in the case of the four low-pressure chamber units.

Q The manufacture of the low-pressure chambers, including these pieces of equipment that were missing, the inter-com system, the oxygen system, and so forth, was not according to you, done by Dr. Ruff's Institute, is that so?



A Surely not, because Ruff's institute was a medical research institute; the equipping of the chamber was surely done by some workshop of the DVL. I don't know the details.

Q Now this mobile low-pressure chamber that came to Dachau in January or February, 1942, when it reached the DVL, was this chamber immediately allocated to Ruff's institute, or was it still under the orders of the Medical Inspectorate, that is to say, Prof. Dr. Hippke's orders?

A Dr. Sauter, I believe that that is an economic or legal problem, just who owns something which has been allotted to someone else but not yet delivered. So long as the chamber was in the DVL, Dr. Ruff could of course not dispose of it with complete freedom, but if he had some special purpose for the chamber, had to get Professor Hippke's permission.

Q Then the disposal of the low-pressure chamber, even the one at Dachau, was held by Dr. Hippke as Chief of the Medical Inspectorate, is that what you are saying, and if I understand you correctly Dr. Ruff could not dispose of it independently but only with Professor Hippke's approval, is that what you are saying?

A That is what I think is the case. However, I cannot take responsibility for the economic and legal problems involved.

Q Now, how did this work out in practice? For example, who issued orders for this chamber waste be sent somewhere, there had to be travel orders, a directive with permission for the chamber to be moved. Now who issued these orders, did Dr. Ruff or his institute issue them, or did the Medical Inspectorate, or did some Luftwaffe unit issue them on orders from the Medical Inspectorate?

Are you personally informed regarding this matter?

A First let me tell you that of my own knowledge I can tell you nothing regarding the conditions at that time, because I had nothing to do with the transportation of these chambers. I can speak only on the basis of my general information. I can say for certain that Dr.

Ruff could not sign such travel orders, because that was a purely military matter, and Dr. Ruff, as the head of a purely civilian institute, had no right to issue any such military orders, so those orders must have been signed either by Hippke himself or by someone else with the necessary military powers who was commissioned to do so by him.

Q Now, regarding the right of disposal of this low-pressure chamber, I should be interested in the following: When the chamber was in Dachau ready to be used for experiments, who, in your opinion — you are a doctor, not a lawyer — who, in your opinion as Referent of the Medical Inspectorate, had the right to dispose of the chamber? Who determined whether it stayed there or was removed, and Dr. Becker, before you answer this question, let me remind you of a letter that has frequently been read here, a letter from Prof. Hippke to Obergruppenfuhrer Wolff of the SS, I believe of 20 May 1942, in which it is stated that the chamber was to be brought back to Berlin and was to stay there and was to be used for front-line purposes, but was not to be used by the SS?

MR. HARRY: In view of this last question, Your Honor, I must object on the ground it is a leading question. It seems to me that the Defendant has exhibited that he can well testify for himself, and under the circumstances it is unfortunate that I cannot cross-examine Dr. Sauter. I can only cross-examine the defendant.

THE PRESIDENT: The question is certainly a leading one. The objection will be sustained. The question may be propounded to the witness, but let him answer it instead of counsel putting the words in his mouth.

BY DR. SAUTER:

Q Witness, I shall then ask you the following question: Do you know Hippke's letter to Wolff of 20 May 1942? This is the letter in which Hippke writes that the low-pressure chamber is not to be made

29 May 47-~~45~~-ATD-~~4-5~~-Cook (Int. Brown)  
Court No. 1

available any longer but is needed for front-line purposes; do you know this letter?

A I know it, but so that I may answer your question, may I ask you to hand me the document? I don't remember it well enough.

Q. Dr. Becker, you are not to answer the question as I asked it first. The Tribunal said it was a leading question, just answer the question I ask you now, certainly, no leading question, whether you know that letter which was frequently read during this trial. This is the letter in which Hippke writes that he cannot make the chamber available any longer because it is needed for front line purposes. I believe it is the letter of 20 May 1942. Witness, I have a copy of the letter here. I see it is not a letter ....

THE PRESIDENT: Counsel, just submit the letter to the witness, the messenger will take it to the witness and ask the witness if he is familiar with the letter.

DR. SUTHER: It is not a letter from Hippke, as I see, but a letter from Field Marshal Milch. I must correct myself.

A. Yes, this is the infamous letter headed "Dear Wolfy", and I am of course, familiar with it.

Q. Dr. Becker, when you read this letter when you were a referent, what conclusion do you as an expert draw from this letter regarding who was entitled to dispose of the chamber while it was in Dachau? Was it the SS, or the Camp Commander of Dachau, or who was it?

A. It seems to me to be a rather difficult legal problem. Milch says, on the one hand, that the chamber cannot remain in Dachau. Thus, Field Marshal Milch is apparently assuming that in this case he, as a representative of the Luftwaffe, was entitled to take the chamber away from Dachau. But who was legally competent to dispose of the chamber in Dachau, I as a person not familiar with legal matters cannot clearly see.

Q. Is there anything in the letter to the effect that Dr. Ruff or his institute had this right of disposition? Is there anything there to indicate that Milch had no rights in this matter and that Wolff or the SS had to go to Ruff? Is that in the letter?

A. That certainly is not in the letter.



Q. Nothing to that effect in the letter?

A. No, sir.

Q. Then who, according to this letter, has this right of disposition, or at least assumes it.

A. At least Field Marshal Milch feels that he has the right to fetch the chamber away from Dachau at this date.

Q. As Inspector General of the Luftwaffe.

A. I don't know when he received that commission. At any rate, he was State Secretary in the Reich Aviation Ministry.

Q. Dr. Becker, I have another technical question which you surely can answer. It will be rather important to know what sort of electrocardiograph was used. This is perhaps important in Dr. Lemberg's case. Day before yesterday I believe, you expressed the assumption that the low pressure chamber in Dachau was equipped with a Braun's tube, a Cathode-ray oscillograph. Do you know precisely what this apparatus was, the apparatus that was in the low-pressure chamber?

A. Since I was not present during these experiments I don't know that. From what Dr. Lemberg said, I gathered that this was an apparatus which enabled him to observe the course of the electricalgraphic representations of the heart beats, and I suppose that this might have been an apparatus such as was manufactured by the Viennese firm Karajan. The Karajan model was a cathode-ray oscillograph with a Braun's tube, but I can't say for sure which machine Dr. Lemberg had. There are certain machines which do not operate with Braun's tube but still work. It is a very likely conjecture, but I don't know for sure.

Q. Is this the so-called Kleine Siemens apparatus? In answering this question, let me remind you of Dr. Lemberg's testimony on the stand. At that time he said that it was a moving point of light on a small screen. That is what Lemberg said. Now, perhaps you will remember that. Now, is this the sort of machine that you just mentioned?

A. No, I must correct myself. In this case of the small screen there is a screen of about 10x5 cm, and this is the screen you find in the Kleine

Siemens electrocardiograph.

Q. Now, by observing this moving point of light of which Remberg spoke in his testimony, can one come to a precise diagnosis of the condition of the heart or is that simply a vague indication of the heart activity? What can you, as a doctor, tell us about this?

A. Please don't mistake what I am about to say as the testimony of a heart specialist because I am not one. However, I do know a little about electrocardiographs. I would not trust myself to draw an accurate diagnosis on the basis of this moving point of light.

Q. Last question, witness, regarding the barometer. Did this barometer have any technical connection with the pumps? Was it attached to the pumps, or where was it installed for the purpose of measuring altitude?

A. There was a direct technical or mechanical connection between the barometer and the pumps. That can be seen from the fact that the pumps were in a different truck from the truck in which the chamber was, and, of course, the barometer was on the low pressure chamber itself.

Q. I have no further questions, Mr. President.

DR. FRITZ FOR ROSE:

Q. Dr. Becker-Freytag, in your cross examination, witness, you said that the research assignments of the Medical Inspectorate that did not concern aviation medical questions originated from Referat 21B of the Medical Inspectorate. From the word "originated" one understands that the initiative was taken by that Referat in issuing these research assignments. Prof. Rose considers that statement incorrect and confronts you with the fact that as far as he knows a single hygiene research assignment, particularly one to Prof. Rose, was issued on the initiative of the Medical Inspectorate; rather, these research assignments with an exception originated in an application on the part of the research man in question himself. Do you wish to supplement or correct the statement you made in cross-examination on the basis of this information from Prof. Rose?

A. Of course, I unfortunately do not have the verbatim record of what I said in cross examination before me now, but I very much doubt whether I actually said what you just said I said. In so many words let me right away correct a mistake that you made in naming someone. You said assignments to Professor Rose, and you mean Professor Haagen.

Q. Yes, that is right.

A. Then, when I was speaking of the Referat for Hygiene in cross examination, I was speaking only of a very few hygiene research assignments, and not all research assignments that were not aviation medical assignments; and finally, if I really said that research assignments to Haagen really originated with the Referat for Hygiene, then what I meant to say in this connection was that the actual work the opinion expressed by the Referent, was done by the hygiene Referent. I, however, do not know whether the assignment to Haagen was issued on Haagen's application or because the Referent for Hygiene considered it necessary, but, according to the general custom, it is the most probable thing that Haagen applied to the Medical Inspectorate for the assignment, and I believe this question could be cleared up once and for all if Haagen would testify on it himself.

Q. And one other point, briefly. In the redirect examination you said that you had seen no documents here that originated from the files of the Medical Inspectorate in Harzburg, but the so-called "green folders" containing the reports on the Consulting Conferences, which were submitted by the prosecution, come from those Harzburg files. That can be ascertained from the names on the covers of these folders, entries by hand in the text, etc. Does that give you any reason to wish to correct the statement you gave your counsel before?

A. I can't correct it, because I have never seen the green folders of which you are speaking in the original, and there is no stamp of the Medical Inspectorate on the copies that the Prosecution put in evidence. Since many thousands of these reports were issued, I supposed that the copy might have come from somewhere else. However, if you tell me that there is a stamp or a name of some member of the staff of the Medical Inspectorate, then I must correct my testimony.

Q. No further questions.

THE PRESIDENT: The Tribunal will be in recess for a few moments.

(A recess was taken).



THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Are there any further questions to be propounded to the witness by any other defense counsel?

DR. GILM: (Representing Dr. Wille, defense counsel for Dr. Welts) Witness, during cross examination, you described how in June of 1942 you were present at a discussion between Drs. Hippke and Rascher; now during that conference and in your presence did the name Welts come up at all?

THE WITNESS: In my presence, no.

DR. GILM: Thank you very much. Thank you, Mr. President.

THE PRESIDENT: Are there any questions by any other defense counsel or any questions by the Prosecution concerning the subsequent examination of the witness?

MR. HARDY: Dr. Becker-Freysong, do you have any knowledge as to whether or not in the year of 1943 Dr. Rascher received another pressure chamber at Dachau for further experimentation as solicited in the Siever's diary for the year 1943?

THE WITNESS: No, I have no knowledge of that, but considering everything that I know I think that it is absolutely out of the question that Rascher received yet another pressure chamber.

MR. HARDY: Did your office or did you have cognizance of any other correspondence which may have originated from Rascher or Sievers regarding the allocation of a pressure chamber to Dachau in 1943?

THE WITNESS: Either during my direct or cross examination, I said that during the winter of 1942 to 1943 my department chief asked me to define my attitude in writing briefly regarding the question of whether a sub-pressure chamber convoy could be handed over to Rascher. The requisite form I did not see, it may have been done over the telephone or it may have been done in writing, nor can I say that it came from Sievers, Wolff, Rascher or Himmler and whether there was a telephone call or letter I cannot say.

MR. HARDY: Do you have anything further to add to that?

THE WITNESS: Well, with regard to what I have already said upon this point in the direct or cross examination when I described the story in detail, I also said that I, as an assistant referent who had to deal with low pressure chamber questions, had to give an opinion to the effect that no low pressure chambers were available, further I have nothing to add.

MR. HARDY: Dr. Becker-Freyseng, in the course of your examination we have heard your position in regard to medical ethics of experimentation on human beings. If I recall correctly, you stated that experiments on human beings should not be conducted until such time as the research on animals had been exploited to the last degree; is that correct?

THE WITNESS: I consider that it is an obvious pre-requisite for experiments on human beings that one would first attempt to solve the problem as far as possible by animal experiments.

MR. HARDY: Do you apply that also to the field of the high altitude research?

THE WITNESS: No doubt, certainly.

MR. HARDY: Dr. Senter questioned you concerning the animal experiments of Dr. Latz and Dr. Wendt and referred to the document No. 402, which is in Document book 2. I have a point to bring out to you, which is on page 96 of the English Document book 2, Document No. 402. Does the interpreter have that; page 96?

THE INTERPRETER: Yes.

MR. HARDY: It is the paragraph in the middle of the page, beginning with the words.

"Before we go into a discussion on the falling experiments, it seems essential for us to cite the work of Latz and Wendt on 'Animal Experiments on Parachute Jumping from High Pressure Cabins'. Unfortunately, this work was not available to us during the experiments so that we could not build upon the valuable results contained in it and derived from numerous animal experiments, or upon the experience of the authors."

From that passage, Dr. Becker-Freyseng, is it not obvious that Drs. Ruff and Rosenberg conducted their experiments with referring to work on animals or without having previously worked themselves on animals?

THE WITNESS: With reference to that, I would like to say the following. The report to which Drs. Ruff, Rosenberg and Rascher are referring to in this case is merely the report made by Lutz and Wendt and the Air Department was not concerned with this, at least from the translation I heard from the words Lutz being mentioned. Lutz?

MR. HARDY: Yes, that is correct.

THE WITNESS: ...Then I consider from Drs. Ruff and Rosenberg examinations that they themselves in their institute of Adlershof had carried out experiments on animals with reference to this particular field and that they had also carried out certain initial informative experiments. Finally, I do not believe you can reproach any scientist when another scientist who has had made similar experiments in a similar field, if the other scientists work is unknown to him and if therefore the original scientist conduct his original experiments without being able to utilize the work of the other scientist. I think the medical expert of the prosecution will confirm it that in extraordinary number of medical works you will find statements to the effect that during the time I carried out my work, I gained knowledge of work being carried out in the meantime by someone else." This will always happen and you cannot raise a single finger to prevent it.

MR. HARDY: During your testimony before Dr. Sauter in direct examination here this morning, he took the position and asked your opinion as to whether or not the animal experiments carried out by Lutz had solved the problem; you stated that the experimental conditions, under which Lutz carried out his work on animals, did not solve the problem. Is it not apparent from this report that Ruff and Rosenberg had no knowledge whatsoever of experimental work on animals and therefore they could not determine whether Lutz and Wendt had solved



the problem, inasmuch as they state here, "Unfortunately this work was not available to use during these experiments, so that we could not build upon the valuable results contained in it?"

THE WITNESS: Well, this would show that the authors of this report only learned of Lutz and Wendt's work after they had completed their own experiments.

MR. HARDY: Thank you, I have no further questions.

THE PRESIDENT: If there are no further questions to be propounded to the witness, counsel may proceed.

BY DR. TIPP:

Q Mr. President, only two more questions arising from the questions which my colleagues put. First of all, a question, Dr. Becker. You said this morning when Dr. Sauter questioned you that you had learned from Romberg's report how the electro-cardiograph worked during the experiments at Dachau; may I ask you in order to clear up this measure that report you were referring to and when did you gain knowledge of these reports?

A In that case, I was referring to the report which Dr. Romberg had made from this witness stand here while being interrogated.

Q Therefore, you were not thinking of the reports from an earlier date as one might conclude you did?

A No.

Q In that case, one more question arising from the question which Mr. Hardy just touched upon, namely the transfer of the low pressure chamber to Dachau, which was supposed to have been carried out in 1943. Mr. Hardy was making reference to entries in Sievers' diary. Unfortunately the document is not before me at this moment and I cannot ascertain the document number. The interpreter may be able to help me in that connection.

A It is Document 538, Exhibit 122. Unfortunately I cannot tell you the page. Exhibit 122.



Q Could you please tell me what document book it is in, I think it is 3.

A It is an appendix to 3, I am afraid this is all I can say.

Q But, you have the document before you. Would you be good enough to clarify this and to read just what Sievers said in regard to the high altitude experiments at Dachau. Perhaps in order to maintain continuity you can start with the beginning and then read the subsequent paragraph.

A I have only a brief extract here, an extract from the scientist's diary of the Ahnenerbe Society for 1943, kept by the Reichs Manager SS Standartenfuhrer Sievers, under No. 8.

Q Excuse me, witness, but would you mind telling me just what the date of this entry was?

A Unfortunately I cannot tell you the date, my document does not show it, but there are these words, "Continuation of Low Pressure Chambers."

Q Does the document show just what we were concerned with therein, in other words on what occasions was that reproduced in Sievers' diary?

A As far as I know the entry was made in connection with the conference between sievers and Rascher on an inquiry Rascher made to Sievers.

Q Mr. President, I can clear this up. It is 6 March 1943, the reference is made to a conference between Rascher and Sievers during which a number of points are listed. Under No. 8 of this point of the conference there is mention of the continuation of the low pressure experiments. You cannot draw any other conclusion from this entry except that it was a conversation between Rascher and Sievers.

MR. HARDY: I request the Tribunal to instruct Dr. Tipp that that is an argument and cannot be taken up at this place.

THE PRESIDENT: I think that is merely an explanation of the document and he did not state the contents of the document at all. Counsel

may proceed.

DR. TIFF: Mr. President, I have no further questions to this witness. If I may have the permission of the Tribunal, I would like to continue with the presentation of documents and the witness may be excused.

THE PRESIDENT: Did you understand the ruling of the Tribunal? You can proceed with the questioning of the witness, did you or did you not understand the objection by the prosecution was overruled; did you understand?

DR. TIFF: I understand Mr. President, but through the explanation I have assumed and the added testimony of the witness, the question is cleared up and I don't think there are any further questions necessary. In conclusion I want to ask you, Dr. Becker, you probably remember the contents of the Sievers' diary, do you agree with my interpretation that this is merely an extract of a conference between Sievers and Rascher which does not show anything about the continuation of the experiments?

THE WITNESS: That is my opinion too. At any rate, I am absolutely convinced that in 1943 no low pressure chamber was ever again moved to Dachau.

DR. TIFF: Again, in that case, Mr. President, I have no further questions to the witness.

THE PRESIDENT: There being no further questions to be propounded to the witness, the defendant Becker-Freyseng is excused from the witness stand and may resume his place.

THE PRESIDENT: I understand, counsel, the defendant Becker-Freyseng will not call as a witness Eugen Haagen. His name was listed as a witness for the defendant Becker-Freyseng on the witness sheet of May 27th.

DR. TIPP: That is quite right, Mr. President, and I can clear up this point. I agreed with Mr. Hardy that in order not to interrupt the sea water case the witness Haagen will not be called until the whole sea water case has been completed, after the examination of Dr. Schofer has been completed, as well as Beiglboeck.

THE PRESIDENT: I just wanted to see that nothing was overlooked. Counsel may proceed.

DR. TIPP: Mr. President, the next document which is offered on behalf of the defendant Becker-Freyseng has exhibit no. 32. It is contained in Document Book III and is Becker-Freyseng Document 48. May I now continue with submitting the documents from Book III and it is no. 49. I should like to offer it as exhibit 33.

MR. HARDY: May it please the Tribunal, I have three or four document books and Dr. Tipp has several documents to introduce from each book and I don't want to interrupt the continuity of his case or the sequence of his case but it would be much more convenient if he would introduce the affidavits and documents through each book and complete the introduction of Document Book 1, then 2, 3, and 4 in that order if possible and I could follow so much more rapidly and could interpose my objections without too much difficulty.

DR. TIPP: I don't think this difficulty will arise. I am only going to submit the remaining documents from Document Book III. As far as the remaining documents in 1 and 2 which have not been offered in evidence, these are documents concerned with experiments on human beings which are impossible to offer now, in accordance with the ruling of the Tribunal all documents which were meant to be submitted since Prosecution has recognized the importance of the experiments. Therefore, as I said I will turn to document 49 in Document Book III on page 210 and

I shall call it Exhibit 33. It is an affidavit dated 11 February 1947 and it is merely being offered in order to show that a number of thirty high ranking officers of the German Air Forces were having confidence in Becker-Freyseng and Professor Schroeder to the effect that they were carried out on strictly humane principles. I don't propose to read this document.

MR. HARDY: May it please the Tribunal, I have agreed with Dr. Tipp. I will not object to its introduction in evidence even if it does not meet with the previous regulations of the Tribunal. It does not have a jurato, isn't in good form. I do not wish to object and wish to have it admitted but wish to reserve the right to object in the future.

THE PRESIDENT: The record will show counsel's reservation to the right to object in the future.

DR. TIPP: Now I shall, Mr. President, submit the document from the same document book, page 213, Becker-Freyseng Document 50, and I will call it Exhibit #34. It is an affidavit from a clergyman Dr. Oestreicher from Heidelberg dated 23 December 1946. This witness confirms in this document that he knew Dr. Becker-Freyseng intimately since 1928 since he had been a friend of his son and he was a regular visitor in the house of this witness at the time his son was at the university. I should like to quote paragraph d from the first page:

"I am able therefore to testify that Dr. Hermann Becker-Freyseng had a true christian conviction and devoted himself to an irreproachably pure way of life. As a physician he was filled with the highest sense of responsibility, and only tried to help his patients. In my opinion Dr. Hermann Becker-Freyseng had a christian character and never did anything against his conscience."

Paragraph c deals with the reason for Dr. Becker-Freyseng joining the Party and the witness says that Becker-Freyseng told him he had merely done this because the Party was based on christian principles and had promised to relieve the great unemployment and need of the masses.



This is paragraph 3.

I should like to turn to page 2 of the document: "Like so many others, he, too, was disappointed in this trust, and abstained therefore from any political activity. He never agreed to what was called later the national socialist outlook on life either in theory or in practice, but as I learned in 1945 after a prolonged conversation with him, he remained unalterably faithful to his christian conviction."

Then follows the signature and the certification.

The next document I should like to offer is Becker-Freyseng No. 51 from the same Document Book on page 215. I shall call it Exhibit Becker-Freyseng 35. It is an affidavit from Professor Dr. Albert Daur who was a resident of Heidelberg, dated 30 December 1946. Dr. Daur describes therein that he had known Becker-Freyseng as a school boy and that he had continued to meet him during his university time and the beginning of his medical career. I should like to quote from paragraph 2 of this document, the last sentence on the first page: "He wants to create, not to destroy, and his medical efforts can only be directed towards helping, healing and saving".

I should like to continue my quotation under paragraph 3, the second sentence: "I consider it impossible that he could ever have taken part, on his own responsibility, in any wrong doing or any kind of inhumane behavior, and if, as Stabsarzt of the reserve, he was entrusted because of his activity with some special tasks, he is sure to have carried them out only as the good man he always was."

The final paragraph of the document assumes that the witness himself has not been a member of the NSDAP and that since December 1945 had been working with the permission of the Military Government. There follows the correct certification.

The next document is on page 217 of the Document Book, Document 52 of Becker-Freyseng and I shall call it Exhibit 36. It is an affidavit of the well known physiologist Professor Dr. H. Rein at Goettingen dated 21 January 1947. After the usual introduction the witness states

under paragraph 1 - and I should like to quote:

"I never thought Dr. Becker-Freyseng capable of committing a crime against humanity as he never gave me any cause to think so either in his conversation or by his behavior. I was surprised to hear that he was among the Nurnberg defendants and to this day I am entirely in the dark about how he made himself guilty."

The subsequent paragraph under 2 contains the statement to the effect that Dr. Becker-Freyseng had intervened for a scientific book which was to be prohibited in Germany since the introduction had been written by a Jewish author. I don't want to quote from this paragraph. Paragraph 4 on the next page I should like to quote if I may.

"Dr. Becker-Freyseng conducted experiments on himself to the very limit of the possible; he experimented, for instance on himself for days with oxygen poisoning to the point of pneumonia; these experiments were exceedingly elucidative and therefore meritorious for the whole medical science."

I should also like to quote the last paragraph in order to throw additional light on the personality of the defendant and the witness says, and I quote:

"I myself have been affirmed by Military Government as the Rector of the University of Goettingen, as a member of the scientific advisory committee for the British Zone and as the editor in chief of *Flat-Reviews for Physiology*."

And the signature is once again followed by the proper certification.

The next document I should like to offer you will find on page 220 of the document book. It is Becker-Freyseng Document No. 53, which I shall give the exhibit number 37. It is an affidavit from Dr. Franz Buechner of Freiburg dated 22 January 1947. I should like to state in supplementation that Dr. Buechner has, of course, been quoted repeatedly during this trial. Under figure one of this document Dr. Buechner describes, to begin with, his personality. He says that he himself has neither been a member of the Party or any of its associated organizations and that during the time of the Third Reich, because of his position towards the national socialistic doctrine, he was subject to persecution. I should like to make a brief quotation from figure 2:

"I met Dr. Becker-Freyseng when he was an assistant at the Institute for Aviation Medicine of the Reich Ministry for Aviation in Berlin, if memory serves, in 1936. During the war we were in frequent official contact, when I was in charge of aviation matters and pathology and he repeatedly visited me in Freiburg, partly for the reason that he worked with my assistants Liebegott and later Pichotka on animal experiments regarding oxygen poisoning. Several times he had lunch or dinner in my house. I therefore consider myself qualified to give an opinion as requested on Dr. Becker-Freyseng from the 'general, human and professional point of view'."

The witness then continues to describe how Dr. Becker-Freyseng, because of his personal attitude and his Christian education, remained true to these characteristics and he describes him as "open-minded, reliable and very correct" in official matters and he describes him as a scientist who, during experiments on himself and animal experiments, had achieved great results. The witness states how far he had authority to make decisions of his own and the signature, as usual, is followed by the required certificate by a notary.

The next exhibit I should to offer is the Document Becker-Freyseng No. 54 on page 222 of the document book and I will call it Exhibit No. 38. It is an affidavit from Professor Hermann Roenke of Heidelberg, dated 27



December 1946. I should like to quote from this document where Professor Hoepke says, after the usual introduction:

"Dr. Becker-Freyseng was a student of medicine in Heidelberg from 1929 to 1932, and as such attended all my lectures and courses. Since I respected him very much as a talented and industrious pupil, I invited him several times to my house. Dr. Becker-Freyseng has stood by me since that time and later always visited with my wife and me whenever he was in Heidelberg. He did that in spite of his knowledge that my wife was half-Jewish and that the Nazis had dismissed me from my office as a university professor for this reason."

The witness states, and I continue to quote:

"In December 1937 he reviewed, in the magazine 'Gymnastic and Folk Dances', 12th year, 12th issue, my book published in 1936, 'The Muscles of the Human Body and Their Play'. I have the copy at hand. The following sentences are informative: 'Hermann Hoepke dedicated the work...to his pupils. I was fortunate enough to be one of them... As a token of gratitude to my teacher I believe that I should direct the attention of German gymnastic circles to this book.'"

I think I might say in connection with this document, Mr. President, that after all it takes quite some courage and faith in an old teacher for a German scientist in the year 1937 to express so openly his faith in a man who is being persecuted on racial grounds.

The next document I wish to offer is Becker-Freyseng No. 55, but the following document I don't want to offer. It doesn't actually offer anything new and would merely mean unnecessary burden both to the Tribunal and to the record. It lists points which other affidavits have already proved more clearly and efficiently. So, therefore, I will not offer Document No. 55, but the next document I would like to offer is Becker-Freyseng No. 56, page 225 of the document book. I shall make it Exhibit 39. It's an affidavit from Professor Karl Matthias of Erlangen, dated the 18th of January, 1947, and I should like to give a brief quotation from it. After the customary introduction the witness says, and I quote:



"I certify that Professor Dr. Hermann Becker-Freyseng, in his capacity as scientific consultant for the chief of the Medical Service of the Luftwaffe, always supported me in my scientific work most appreciatively though he knew that I was affected by the then racial laws because of my wife's ancestry.

"Even in 1945, when for racial reasons I was threatened to be called into a work camp, he promised me the support of his office."

That's the same point which was proved through the previous affidavit. The signature is once again followed by a notary's certificate.

The next document I would like to offer is Becker-Freyseng No. 57 which you will find on page 226 of the document book. I should like with your permission to give it Exhibit No. 40. This is an affidavit from Dr. Josef Pichotka, dated the 28th of January, 1947. The witness describes, to begin with, how he got to know Dr. Becker-Freyseng and he says, following the usual introduction:

"I have known Dr. Hermann Becker-Freyseng since 1940. We got to know each other because the fields of our scientific activities were the same. In the course of time these relations became consistently closer with the result that we sometimes worked in direct conjunction and were close friends.

"As to my political attitude, I want to state that, because of my anti-Nazi attitude, I was exposed to persecutions during the whole of my period of studies - this is official<sup>ly</sup> recorded in a letter of the University of Freiburg. In December, 1944, using a weapon contrary to orders, I rescued a parachuted American airman from a crowd of people which wanted to hang him. The proceedings against me were quashed."

I go on and continue to quote:

"Because of my close relations with Dr. Becker-Freyseng we very frequently discussed the burning problems of this time. From these conversations I know his strong antipathy towards the many National Socialist machinations; he always abhorred in particular the inhumanities which resulted from the consistent application of National Socialist ideology.

As I knew his attitude from several conversations, I turned to him in 1944 in connection with the case of a half-Jewish friend of mine."

Then the witness goes on to describe, and I quote:

"At that time this friend, Dr. Franz Froehlich, now living in Heidelberg-Handschuhsheim, Kirchgasse 4, was a medical student at the institute where I was an assistant doctor. It is true that, for the most part, nobody troubled him, but he had no income and was always subject to the danger that one day he would be put into a camp or that, at least, he would lose the right to go on working at the institute. I therefore appealed to Dr. Becker-Freyseng to try, with the help of his official influence at the Medical Inspectorate of the Luftwaffe, to procure for Froehlich a permanent post at the Institute for Aviation Medicine in Freiburg. Dr. Becker-Freyseng promised his support. Shortly afterwards Dr. Franz Froehlich did, in fact, obtain a permanent post at the Institute of Aviation Medicine in Freiburg."

I would like to add myself that that is Professor Buechner's institute.

I should like to quote the final paragraph of this document:

"For his fairness in scientific matters, too, Dr. Becker-Freyseng deserves my highest esteem. He never monopolized an idea or a result as so frequently happens. I am in a position to judge this especially well as we worked for years on the same subject."

The next document I should like to offer is Becker-Freyseng 58, which you will find on page 228 of the document book, and I will give it Exhibit No. 41. It is an affidavit from Dr. Linda Wunderlich in Stuttgart, dated the 21st of December, 1946. I should like to briefly state that Mrs. Wunderlich was a colleague and physician together with Dr. Becker-Freyseng at the Robert Koch Hospital in Berlin which was under Professor Dr. Daenich's control, who too has already given an affidavit on Dr. Becker-Freyseng's behalf. I would like to quote from approximately the middle of the document:

"It struck me especially that Dr. Becker-Freyseng had much sympathy

with the patients and always showed deep understanding, even towards the most difficult ones. He did not indulge in conversations of a political nature and so I do not know whether he belonged to any organization of the NSDAP. I never saw Dr. Becker-Freyseng in uniform either."

In order to elucidate, I should like to state that, of course, the witness is thinking of a Party uniform and not the German armed forces uniform.

I continue my quotation:

"From his conversations on matters of medical ethics it was apparent that his ideas were not influenced by the National Socialist conceptions of medicine."

Then follows the customary signature and certificate.

The next document I should like to offer is Becker-Freyseng No. 59 which is on page 230 of the document book and which I will give the Exhibit No. 42. It is an affidavit from Dr. Hans Denzer of Albaum/Sauerland, dated the 23rd of January, 1947. Dr. Denzer describes first of all, after the customary introduction, what his activities were and he says that since the 4th of January, 1946, he has been the head of the Reich Institute for Fishing, Director of the Teaching and Research Institute for Trout Breeding and of the Institute for Fishing Drainage in Albaum/Sauerland. He states that the British Military Government had confirmed him in this position. Under the following figure 1 the witness states:

"Since 1940 the Medical Inspectorate of the Luftwaffe continuously sent me research tasks concerned with 'comparative physiological high altitude experiments on animals.' During these investigations I introduced new ways and means of experimenting on animals which had been reported to the public as well, e.g., in the Periodical for Aviation Medicine and the Clinical Weekly, Volume 21, page 126, 1942. These experiments were to serve general physiological knowledge and had therefore no direct military-economic purpose. I sent the mice which I had inbred especially for the purpose to numerous institutes and scientists.



"2. Dr. Becker-Freyseng has supported me since 1941 as Assistant Specialist (Hilfsreferent) and from 1944 as a specialist for aviation medicine in numerous cases."

Then I'll just briefly explain the other points. He says that Dr. Becker-Freyseng helped him to get test animals and the witness draws your attention to the fact that rabbits were supplied by Dr. Suchalla to Dr. Becker-Freyseng who is the same man who has already testified regarding the use of rabbits for experimental purposes and has already given that affidavit.

Under paragraph b the witness states that Dr. Becker-Freyseng was always interested in animal experiments and several times made suggestions during conversations.

I should like to quote from paragraph c:

"Dr. Becker-Freyseng has carried out numerous experiments on animals. During recent years he frequently complained to me that his duties with the Medical Inspectorate were robbing him more and more of the possibility of pursuing his own experimental research work on animals."

The final paragraph describes merely Dr. Becker-Freyseng's attitude. I should like to give a very brief quotation from figure 4:

"I do not know whether Dr. Becker-Freyseng was a member of the NSDAP. He has never shown any attitude which could indicate sympathy with the Party. He also criticized several times the methods of the Party in the presence of many colleagues. I myself have never been a member of the NSDAP and have never belonged to any branch of it."

Then follows the signature and certificate.



The next document of this book I cannot yet offer, Mr. President. It deals with human experiments and must, therefore, be submitted at a later stage.

Now, Mr. President, we are faced with a difficulty. I had already had the honor to discuss this with you yesterday, and it is that Document Book No. 4 has been handed in for translation by us a long time ago and I had been promised that it would be ready for the second half of this morning's session. I do not know whether the General-Secretary has been able to obtain this book during the recess or whether the Tribunal has it on hand.

I should like, of course, to submit those very few documents from Document Book No. 4. I think there aren't more than two. I should like to submit them now. But due to the orders of this Tribunal I can only do so if the translation is available already.

THE PRESIDENT : At this time the document books have not been furnished to the Tribunal.

MR. HARDY : What document numbers is counsel referring to ? I have some from Document Book No. 4.

THE PRESIDENT : The Tribunal has some odd documents from Book No. 4.

MR. HARDY : I have No. 62 and a copy of this was given to me by Mr. Trevis.

DR. TIPP : I can clear this up, Mr. President. Two documents of our Document Book No. 4 I have given exhibit numbers and they have been introduced. That is Becker-Freyseng No. 64, which is an affidavit from Dr. Hans Schaefer. That is Exhibit No. 7 and the Document Becker-Freyseng 61 which is Exhibit No. 20. It is Dr. Harry Guchalla's affidavit.

The Translating Branch has been kind enough, the other

day, to place at my disposal the translation of those two documents and the document which I would like to read now from Document Book 4 is No. 62 -- I beg your pardon -- I should correct myself -- No. 63, the affidavit of Alfred Christensen. I don't know whether the Tribunal or prosecution have had a translation of that.

THE PRESIDENT : The Tribunal has available Becker-Freysang Documents 62 and 63. 63 seems to be the affidavit of Christensen.

MR. HARDY : I have both of them too, your Honor.

DR. TIFF : In that case, Mr. President, I should like to continue with Becker-Freysang Document 63. I should like to deal with the affidavit of Mr. Brigitte Crodel dated 17 of April and put a question with reference to that. Some considerable time ago I had sent --

THE PRESIDENT : What number do you offer as Becker-Freysang Document 63 ? Is that the document you are offering now ?

DR. TIFF : Just one second, please, Mr. President, I am told just now that this is going to be Document No. 43. Now, Document No. 63 I should like to offer as Becker-Freysang Exhibit No. 43 and your question --

THE PRESIDENT : Your document is No. 63

DR. TIFF : No. 63 and it will get Exhibit No. 43. It is on page 335 of the Document Book. First of all I should like to say that the author of this affidavit is Alfred Christensen.

Well, then, Document 63, Exhibit 43, on Page 335 of the Document book, is an affidavit of Alfred Christensen and I would like to add that this is the Christensen often mentioned during the seawater case who has signed a statement dated

the 19th and 20th of May, and I should like to quote from II:

"With regard to myself I declare :

- 1.) Trained and worked as Engineer.
- 2.) Worked with the Luftwaffe, was a Group Leader during the war and later Section Chief in the Technical Office.

III. To Document No. NO-177, Prosecution Exhibit No. 133, shown to me by Dr. Hanns Marx, Attorney-at-law, containing transcript of 2 meetings held in the Technical Office of the Reich Air Ministry, Berlin, on the 19 and 20 May 1944, I state as follows :

- 1.) In the photostat of this document I acknowledge and recognize the signature as being mine.
- 2.) The transcribed report on the meeting held on 19 and 20 May 1944 was not made from shorthand notes or any other written remarks on the result of the discussions. Neither was there any resolution accepted by all present at the meeting and passed according to the wording or the sense which could serve as a basis. The report was furthermore not sent to the other departments which had taken part in the meeting for co-signature and consequently for expressing their agreement or disagreement and for stating their objections, before it was sent off.
- 3.) The report was only made 2 or 3 days after the meetings from memory by my Referent, Staff Engineer Schickler, and I signed it without checking it thoroughly. Mr. Schickler was a Dr. Ing and had no medical knowledge or experience, just as I myself had none. At the utmost the report may therefore only be considered unofficial as a memorandum of the Technical Office for the files

or for other offices.

IV. As to the contents of the report and the progress of the discussion on the 19 and 20 May 1944, I declare the following :

1.) By virtue of the tests already carried out in Vienna by Dr. von Syraný with Berkatit, the opinion given by Professor Eppinger of Vienna, as well as by virtue of the favorable raw material and manufacturing situation with regard to Berkatit, the Technical Office of the Reich Air Ministry was determined to introduce Berkatit. In this respect my Department has already settled this with the German Navy and the SS. My co-workers were of the impression that Dr. Becker-Freyseng was perhaps materially interested in Wofetit and consequently opposed to Berkatit.

At the meeting on 19 April-- and I should like to correct this, Mr. President. Of course, it should mean 19 of May, and I should like to add that in the original the date is the 19 of May.

"At the meeting on 19 May Major Jaworeck therefore attacked Dr. Becker-Freyseng personally. It was only due to my interference that Dr. Becker-Freyseng did not leave the meeting together with Dr. Schaefer. There were, however, no grounds for suspicion or even proofs regarding Dr. Becker-Freyseng or Dr. Schaefer.

2.) We had informed the Navy and SS that the introduction of Berkatit was practically certain, the letter was composed with a view to covering us against the objections made by the Chief of the Luftwaffe, Medical Service to Berkatit. In my opinion therefore, the medical objections are exaggerated and represent a biased



emphasis of some remarks, while leaving others out.

- 3.) This refers in particular to the remark made by Dr. Becker-Freysang about the consequences of thirst. At the time, Dr. Becker-Freysang mentioned that with one disease, I believe it was cholera, the patient dies from lack of water. His description of the convulsions and hallucinations referred to this. He then also referred to a case from the series of tests by Dr. von Sirany, who had lost a great deal of water ; Dr. Becker Freysang remarked that if this lack of water continued it could lead to disturbances after a few days and after about 12 days death might occur.

- 4.) The decision to have a detailed plan for the experiments, as set down in the transcript was deferred on the 19 and 20 May 1944 in the presence of Professor Eppinger."

Might I correct this, Mr. President ? Unfortunately we received the document so late that the copy couldn't be checked. There is a copy mistake which disturbs the continuity. I am not sure whether it expresses it in English. In order to clear this up and rectify the record, I should like to read the sentence under 4 from the beginning such as is contained in the original document : "A detailed plan for the experiments such as is set down in the transcript was not made on the 19 and 20 of May 1944, but was deliberately deferred to the meeting on the 25 which was to take place in the presence of Professor Eppinger."

I should like to continue quoting from this document :

"On the 19 and 20 of May 1944 only the necessity of further experiments was discussed and generally referred to. Dr. Becker-Freysang then immediately had serious doubts as to the possibility of carrying out these tests in a hospital or institute in the required manner, since the summer

of 1944 there were neither sufficient persons for experimenting on nor suitable space available. In answer to a direct question put by one of the other persons present at the meeting, whose name I cannot remember, as to the possibility of experiments on convicts, Dr. Becker-Freyseng replied that he thought it possible that prisoners would come forward voluntarily for this experiment, which was not dangerous, and that he would make the necessary inquiries about this through his office."

But the reason for this was not the likely danger, but the above-mentioned organizational difficulties in the organization.

"5.) Definite decisions were not taken at the meetings of 19 & 20 May 1944, but were reserved for the discussion on 25 May 1944. Neither could a resolution be passed about the experimental station at Dachau, as there was no representative of the SS or the police present, the authorities responsible for the concentration camps. Therefore, there must be a misunderstanding on the part of my "Referent", which I unfortunately overlooked before appending my signature. Dachau can only have been mentioned in connection with laboratories, in case prisoners were used as experimental subjects. I also believe that for reasons of air protection the concentration camp Dachau was referred to, since it was generally known that no air attack was ever made on this camp.

"6.) But I do know, however, that later on the experiments were actually carried out at Dachau and that staff engineer Borka himself was at Dachau. Having been told by him that the experimental subjects were volunteers who had come forward on the promise of better food before and after the experiment and a special ration of cigarettes and that nothing could happen during the experiments, I regarded these experiments as entirely admissible.

"7.) Some time after despatching this report," and I should like to say, Mr. President, that the report referred to is the meeting of the 19th and 20th, and I continue my quotation now.

"a member of the chief of the medical office rang up my department and pointed out several errors in the report. As, however, in the meantime the meeting of 25 May 1944 had been held at which I was not present, whereby this report was superseded, the matter was considered closed.

"8.) The meetings of 19 & 20 May 1944 took place at the instigation of the Technical Office and under my supervision.

"9.) The Technical Office alone was responsible for passing preparations for airplane equipment fit for use, to which also the means for

making saltwater potable belonged. The other offices, as for instance the medical chief of the Luftwaffe, merely had the right of veto."

The document is signed on the 16th April, 1947, and it has the certificate, signed by an allied officer from the Administration Office of Civilian Internment Camp No. 6 Neuengamme. In connection with this Document Book No. IV, I should like to ask a question, Mr. President. Some considerable time ago I handed an interrogatory to the Secretary General, addressed to the witness Brigitte Crodel. This witness had been granted for the defendants Schroeder and Becker-Freysong, but she informed me that the Soviet Military Commandant had prohibited her from leaving Berlin. Up to now I haven't had a reply from the Secretary General's office as to whether the interrogatory has been received and returned. Such parts as I introduced in that document book are the same questions which this witness has received through to this Tribunal, and I sent my questionnaire through the ordinary mail in order to achieve that some statement from that witness may be obtained. However, I don't want to introduce this report today. Professor Haagen is now available as a witness and he will be testifying before this high Tribunal. Therefore, I consider it advisable that the questions which are connected with the typhus case, and that includes the affidavit from Crodel, should be offered in this connection in order to preserve continuity. But I do want to say, Mr. President, that as far as I know, it is within the ruling of this Tribunal that if an interrogatory from a witness is handed in, cross questions as desirable for the Prosecution should be made available to the Defense so that re-direct questions can be added. So far I haven't seen the cross examining interrogatory, and, therefore, I do not know whether the Prosecution proposes to or has put such cross examination questions, and may be Mr. Hardy will be obliging enough to give us some information on the question.

MR. HARDY: I have not come up here for that purpose, Your Honor, and I don't particularly know what he is referring to as cross



interrogatory and re-direct interrogatory; it is completely strange and foreign to me, and I am afraid I will have to be briefed on it further before I comment on it. However, I would like to ask in connection with Document No. 63, the affidavit of Alfred Christensen, to ascertain from Defense Counsel the address and location of Alfred Christensen.

THE PRESIDENT: Can the Defense Counsel furnish that information to the Prosecution?

DR. TIPP: Yes, I would love to, Mr. President. The affidavit itself shows it, namely, he is at the Civilian Internment Camp No. 6, at Neuengamme. That is in the British zone, so that in this case the witness is quite easily accessible. And now the second question, Mr. President, regarding the interrogatory of the witness Grodel. I gathered Mr. Hardy is unable to clear up now the question, and I will try to do so during the recess; and I will be able after the recess to submit the remaining documents from Document book, Becker-Freysang V, and I think that on Monday one hour will suffice to submit the remaining documents, and I would suggest that we recess now because at the moment I just simply haven't got any translated documents I could submit.

THE PRESIDENT: As stated yesterday, when the Tribunal takes its recess this noon, it will recess until Monday morning at 9:30, and at that time we hope the rest of the documents will be in order to be presented. As there is nothing further to present to the Tribunal at this time, the Tribunal will be in recess until 9:30 o'clock Monday

morning.

(The Tribunal adjourned until June 2, 1947, at 0930 hours.)

Official Transcript of the American Military  
Tribunal in the matter of the United States  
of America against Karl Brandt, et al,  
defendants, sitting at Nuernberg, Germany,  
on 2 June 1947, 0930, Justice Beals presiding.

THE MARSHAL: Persons in the courtroom will please find their seats.  
The Honorable, the Judges of Military Tribunal I. Military Tribunal I  
is now in session. God save the United States of America and this hon-  
orable Tribunal. There will be order in the courtroom.

THE PRESIDENT: Mr. Marshal, will you ascertain if the defendants  
are all present in court.

THE MARSHAL: May it please Your Honor, all defendants are present  
in the courtroom.

THE PRESIDENT: The Secretary General will note for the record the  
presence of all the defendants in court.

Counsel may proceed.

DR. TIPF (Defense counsel for the defendant Becker-Freyseng): Mr.  
President, last Thursday I stopped with Becker-Freyseng Document 63,  
Exhibit 43, an affidavit by Alfred Christensen, dated 16 April 1947.  
The rest of the documents from Document Book 4 I should like to offer  
in connection with the examination of the witness Haagen. There is an  
affidavit by Miss Crodel, Mr. Haagen's associate, and I believe this  
document would be better submitted at that time than now.

I should like to continue today with Document Book No. 5 which has  
been distributed to the Tribunal today. The first document which I  
should like to offer from this document book is Becker-Freyseng Document  
No. 65, which is on page 344. I give it Exhibit No. 44. It is a supple-  
ment to the affidavit of Christensen which I have just mentioned, an  
affidavit by the same Alfred Christensen, dated 6 May 1947. I shall  
quote. After the introductory formula, the witness states:

"I hereby supplement my affidavit of 16 April 1947 and add the  
following:

"To No. IV (a):

"The notes in question, by Dr. Schickler of 23 May 1944, merely con-

stitute a memorandum made at least several days after the discussion on 20 May 1944, which was not at all based on the minutes of the session. It is, however, possible that Dr. Schickler made a few notes. Minutes were considered legally binding for my office only if they were either taken down in writing at once in the presence of those present at the meeting, then read and approved as correctly rendered, whereupon the person calling the meeting signed the document with the consent of those present.

"Or, if the minutes were taken down subsequently, they had to be submitted to those who took part in the meeting for acknowledgement and counter-signing.

"In the distributor file such notes always carried the marginal note 'counter-signing requested'. This marginal note for counter-signing is, however, missing on the note in question.

"It is certainly incorrect, when in the note on the meeting of 20 May 1944 it is said that Dr. Becker-Freyseng proposed Dachau as the place for experimenting because of the possibility of death of persons subjected to experiments; for the result aimed at in these experiments was not to ascertain the exact moment of death but rather to ascertain the exact moment when potential damage would set in, in taking Berkatit. Dachau was mentioned only because of already existing laboratory facilities there and in the event that experiments could not be carried out in hospitals of the Luftwaffe. In no circumstances has Dr. Becker-Freyseng spoken about the possibility of death in such experiments. Under no conditions should I have agreed to experiments which, in the opinion of medical experts present at the meeting, could have led to death and I should have expressed this point of view at once. That the experts' opinion corresponded with my point of view is evinced by the fact that I myself as well as Stabsingenieur Dr. Schickler declared ourselves ready at that meeting to take part in the Berkatit experiments in question as guinea pigs as long as required, provided we were granted the necessary leave from duty.



"The fact that Dr. Becker-Freyseng repeatedly stressed the fact that persons would have to submit to tests only voluntarily and that only persons in good physical standing would be considered is another reason why I considered these experiments completely harmless. As far as I remember today, Dr. Becker-Freyseng mentioned that persons subjected to these experiments would be granted special privileges after the conclusion of the experiments.

"To No. IV (6) of my affidavit:

"It is not known to me how these experiments were finally carried out. It is only known to me that Stabsingenieur Berka, under great difficulties, procured water from the Mediterranean and brought it to Dachau.

"Likewise, I did not receive any reports on experiments conducted. In conclusion I wish to say that for at least 14 days I myself drank one glass of sea water with Berkatit regularly every morning. I experienced no trouble and had no diarrhea. I considered this water mixed with Berkatit as a pleasant tasting, refreshing drink and frequently offered it to visitors in my office."

Follows the signature of the witness and the certification by the English officer of the internment camp at Neuengamme.

The next document which I offer is Becker-Freyseng Document No. 56 on page 547. The exhibit number will be 45. This is an affidavit by Dr. Cameron Luft, Berlin-Friedenau, 74, Kaiserallee. He signed this affidavit here in Nuernberg in my presence on the 11th of May, 1947. It was intended to call Mr. Luft as a witness for Becker-Freyseng here but he was called to America as a lecturer on physiology and had to leave earlier than expected. I shall quote some statements from this document. Under I, the witness says that from 1935 until the capitulation he was a scientific worker at the Medical Research Institute for Aviation in the National Air Ministry under the direction of Professor Dr. Strughold. I should like to quote II:

"I have known Dr. Becker-Freyseng since 1937. In the years 1938



through 1942 he worked together with me at the Medical Research Institute for Aviation in Berlin, mainly in the fields of physiology and aeronautical medicine.

"By reason of our joint work extending over many years and my knowledge of his scientific work I am in a position to judge beyond a doubt as to his attitude toward medical experimentation upon human beings. In conducting his scientific work, Dr. Becker-Freyseng has always been guided by the principle that all medical experiments upon human beings involving damage to health should first be made by doctors in self-experiments. That he meant it seriously is proven by the following."

In the following sentences the witness describes the experiments of the defendant Becker-Freyseng, together with Dr. Clamann, which have been discussed here several times. The Tribunal knows that Dr. Becker-Freyseng was seriously ill after these experiments. Therefore, I shall not quote this part of the affidavit. However, I shall quote from page 2 of the document, the first paragraph that begins on the second page:

"In the course of the years 1939 to 1942 Dr. Becker-Freyseng underwent, under my direction, over 100 self-experiments in a low pressure chamber for the purpose of clearing up the nature of the high altitude disease. These experiments regularly resulted in complete loss of consciousness and constituted, through their frequency, a considerable danger to his own health.

III deals with the conditions of experimentation in the summer of 1944 in Berlin. The witness says; I quote:

"Although I pursued my experimental work at the institute in Berlin until the end of 1945, the work was rendered extremely difficult through continued air raid warnings, frequent cuts of electrical current and through the damage to the experimental station by the aerial attacks. A systematic pursuit of scientific work was hardly possible anymore. The problem of getting the necessary number of subjects for experiments presented special difficulties. The cadets of the Military Medical

Academy of the Luftwaffe were mostly at the front; the students, as far as they were still at hand there, could not offer themselves for experiments because of their studies, special parallel duties and traffic and food difficulties. Through the good offices of Dr. Becker-Freyseng I succeeded occasionally in obtaining military male nurses as subjects. They always placed themselves at my disposal of their own accord gladly and in sufficient numbers. But we had to fight for every one of them with their commanding officers. If, for once, we got a few people, it happened again and again that they were reassigned before the experiments were finished. Judging from my own experience, I think it would have been impossible in the summer of 1944 to get 40 to 50 healthy young men in Berlin, even for a harmless experiment extending over 4 to 5 weeks. All the men who might have been eligible as subjects were either in military service or were working so strenuously in their civilian jobs that they could not be taken away from their work. Unemployed, or members of independent professions who could have taken a four weeks' leave, did not exist anymore in Germany in the summer of 1944. Likewise, I think it was not possible, in view of the aerial war, that an experiment with 40 subjects on metabolism extending uninterruptedly over 4 to 5 weeks could practically have been brought to a conclusion in Berlin or in any other big German town. Conditions prevailing then rendered such a thing absolutely impossible."

DE. TIPP: In IV the witness deals with the special rations for aviators. I shall merely call this paragraph to the attention of the Tribunal. V of this affidavit deals with Prosecution Document NO 1419, Exhibit No. 447, a letter from the General Commissioner of the Fuehrer for Hygiene and Medicine dated 25 January 1943 to Obergruppenfuhrer Wolf. Since this document was not held to be of great importance in the case of Becker-Preysing and it was not mentioned in cross examination, I shall not quote this point. I shall merely refer to the contents of this paragraph. There follows the signature by the witness and the certificate by myself.

The next documents, number 67 to 72, all deal with the research assignments issued by the Aviation Ministry or the Medical Inspectorate to various scientists. All the witnesses who have testified here received such assignments and speak about the conditions in the department, the check made of the assignments and speak about the conditions in the department, the check made of the assignments, etc.

The next document which I offer is Document 67 on page 352, which I give the Exhibit No. 46, page 1 of the English. There is an affidavit by the Professor in the Medical Clinic at Erlangen dated April 24, 1947, Dr. Karl Matthes. The witness says on page 1:

"On 14 May 1942 I received an order from the Inspector of the Luftwaffe Medical Corps to conduct a scientific investigation of the following problem: 'The action of carbonic acid on the paradoxical of oxygen following acute oxygen deficiency.' See supplement for copy of this order!

"I am also enclosing 1 copy of another research order issued by the Medical Inspectorate on 13 August 1942, directed to Prof. Buerger, director of the Leipzig University Medical Clinic. I was head physician at the Leipzig Medical Clinic. I was head physician at the Leipzig Medical Clinic myself at that time and had worked in that Institute since 1930. At present, I am Director of the Erlangen University Medical Clinic."



In the next paragraph the witness says:

"The cause for my receiving this order can be traced back to a discussion I had in the spring of 1942 with Professor Anthony who was then a specialist for the Medical Inspectorate."

He says then that he had been for some time been dealing with the subject of this assignment and he also says that the Medical Inspectorate supported science in every way.

MR. HARDY: May it please Your Honor, attached to this affidavit are two supplements — that is, two original German documents — one dated August 1942 and the other one May 1942, originating from the office of the Referat for Aviation Medicine. I might ask defense counsel whether or not he intends to substantiate those documents — that is, certify the authenticity thereof.

DR. TIPP: Certainly, in his affidavit the witness refers to these two documents and says that they are included in his affidavit. I believe that that constitutes the proof which Mr. Hardy wants.

MR. HARDY: Does he state that these documents are true copies of the original in his affidavit?

DR. TIPP: Yes. Yes, he does.

MR. HARDY: I won't object your Honor, but I think it is rather an unusual procedure and I will not object without prejudice to the right of the prosecution to object to documents of this type that may be entered in the future.

THE PRESIDENT: I will ask defense counsel if the original documents are attached to the original of this witness.

MR. HARDY: The original affidavit is here, your Honor, and he merely has copies of the documents. He does not have the original documents attached thereto.

DR. TIPP: The original documents, Mr. President, are of course not in the possession of the witness. As was customary, the witness made a copy at that time and attached it to his affidavit. He certified the correctness of these copies under oath. If Mr. Hardy has



any objections, it is, of course, possible for me to send these documents back to the witness who is living in Erlangen and inform him to certify expressly that these are true copies, but I believe it is sufficient in his affidavit he refers to them and thus certifies that the copies are correct; but if the Tribunal wishes it I will be glad to send these two copies back to Professor Matthes for a certificate.

THE PRESIDENT: The first copy referred to is apparently a letter written by the inspector of the Luftwaffe Medical Corps to Dr. Buerger.

MR. TIPP: Yes, Mr. President, and I should like to point out that I have just said that the witness says on page 1 of his affidavit: "I am also enclosing 1 copy of another research order issued by the Medical Inspectorate on 13 August 1942, directed to Professor Buerger, director of the Leipzig University Medical Clinic. I was head physician at the Leipzig Medical Clinic myself at that time and had worked in that institute since 1930." The witness very definitely refers to these supplementary documents in his affidavit.

THE PRESIDENT: Does the witness state in his affidavit that he himself made a copy of this letter when it was received? I haven't had time to read the witness's affidavit in full.

MR. TIPP: The witness does not say in his affidavit how he prepared the copy. He merely encloses it and makes it a part of his affidavit.

THE PRESIDENT: I think at least there should be some statement from the witness that he made contemporaneous copies from the original document when it was received, that he was not quoting it from memory. There is nothing here that accounts for the absence of the original document. There should be a rather complete statement concerning that before it should be offered.

MR. TIPP: Yes, Mr. President. Then I shall not submit this document today. I shall wait until the witness Haagen is here.

THE PRESIDENT: I would suggest that the document be submitted provisionally and subject to later clarification on this matter.

IR. TIPP: Mr. President, may I remark that if I offer it today the original will be in the possession of the General Secretary and I will have to have a ruling from the Tribunal to get it back from him. The simplest thing for me, I think, would be for me to withdraw it today and offer it again in the Haagen case.

THE PRESIDENT: Very well. Follow that procedure.

IR. TIPP: Then I shall go on to the next document, Mr. President. This is an affidavit by Freiherr von Romberg. This is Becker-Freysing's Document No. 68 on page 360 of the document book. I shall give it Exhibit number 46. It is an affidavit by Freiherr von Romberg 25 April 1947. From this document I should like to quote only a few excerpts and explain the contents briefly. The witness on page 1 describes his activity in the field of bio-physics and he says that toward the end of the war there were difficulties in carrying out this work to such an extent that he was obliged to get aid from the authorities, which aid was given him through the good offices of Professor Struhsold, Medical Inspectorate of the Luftwaffe in the form of a research assignment.

This witness says: "I enclose a copy of 'the research assignment giving all the details'" and he continues: "Through this research assignment I was in no way subordinated to the Medical Inspectorate in a military sense. However, I have never assumed that from a scientific view-point this carried with it the duty or the right to control and supervise my activities. Moreover, this is not at all the practice either, because the object of giving a research assignment has always been to entrust the assignment to a research worker whose name guarantees that the work will be done in a strictly scientific manner and any specialist would most emphatically reject intervention from non-professional quarters, be they ever so highly placed. Consequently, the Medical Inspectorate has never exerted any influence in this respect."

In this respect I shall skip the next sentence and shall quote from the next paragraph: "In view of the fact that a research assignment also carries financial support, it was only natural that this authority requested to be kept informed on the progress of the work as well to be given an account of the money used. These reports, however, were rendered only at rather long intervals and only as a summary."

The witness says he had the impression that the research assignment was generously given from a purely scientific interest and with full confidence in the research workers. The rest of the document I shall not quote.

The enclosure, Mr. President, is a typical research assignment. The witness in his affidavit has certified that it is a true copy and I, therefore, believe there can be no objection to the submission of this document.

MR. HARDY: Your Honor, this attachment of the original German document brings up the same situation as in the last document that was offered. It is merely a typewritten copy and isn't substantiated to the degree I think it necessary to be substantiated for this Tribunal. I might suggest the same course be taken with this document, that the defense obtain proper certification in introducing the original German documents. It seems to me the Tribunal should be a little bit more stringent about having them duly authenticated — that is, as opposed to having affidavits notarized. This document purports to be an original German document but, like the others is merely a typewritten copy with no certificate thereon. I might ask the Secretary to pass up the copy so the Tribunal may peruse it.



THE PRESIDENT: I will ask defense counsel, this document, if I am looking at the correct document, was a letter written to the affiant Rosenberg, is that correct?

DR. TIPP: Yes, The witness in his affidavit in the last sentence says and I quote: "I state again that the enclosed research order corresponds to the research order actually given to me and that it is therefore part of the affidavit." I believe that would be sufficient authentication in this case.

THE PRESIDENT: Well, if the original letter was sent to the witness he should have the original letter, if it came to him. Under the circumstances the original letter was written is neither proved and he may or may not have it but if the letter was written to him he should have it--this original letter should be in his file and he could submit the original letter with his affidavit.

DR. TIPP: Yes, your Honor, but it is an experience which we have had repeatedly that old gentlemen-- Professor von Rosenberg is an old scientist --are very reluctant to give up their original documents. If the Tribunal believes that original research assignment should be admitted I will try to get it from Rosenberg and to submit it.

THE PRESIDENT: Well, if he has the original document he could have a certified copy made and the original document be returned to him.

MR. HARDY: This is a matter the Prosecution deems most important.

DR. TIPP: Very well. I shall try to get the original from Mr. von Rosenberg and present it as the Tribunal has just suggested.

THE PRESIDENT: You can tell Dr. Rosenberg that his document will not be taken from him but if he would loan this so a certified copy could be made and certified by the Secretary General, to be a true copy, that would be sufficient-- that copy would be received and the original returned to him.

DR. TIPP: Yes, your Honor.

As the document I should like to offer is Document 69, page 24,



the exhibit no. is 47. It is an affidavit of Professor Hans Netter.

THE PRESIDENT: Counsel, you marked the last exhibit by Rosenberg as Exhibit 46?

DR. TIPP: Yes, 46, that was document 68. Now the next document is Document 69.

THE PRESIDENT: But the document of Dr. Rosenberg will be admitted provisionally in so far as it refers to this letter which he received.

DR. TIPP: As I said the next document is an affidavit of Prof. Hans Netter, dated 25 April 1947. This witness again described his career and says that he received a research assignment from the Luftwaffe 19 November 1942. He goes on to say that the distribution of research assignments was very generous, that his assignment constituted primarily a scientific work. I do not intend to quote any further from this document.

The next document is an affidavit of Dr. Zickholts in Heidelberg dated 28 April 1947. This document no. 70 which I should like to offer as exhibit No. 48. On page one of the document under #2 the witness says and I quote: "About 1942 I received an order, dated 3 December 1941., File No. I in 14,55 Nr. 46 007/41 (2 II B) "Influence on Altitude Tolerance by Chemical Means". The research order was later handled by the Aviation Research, Heidelberg, and was not concluded.

3.) The order was not given by the Medical Inspectorate, it originated on the contrary, from ourselves; a third party was not involved."

I go on to No. 4, on the next page. I quote: 4.) I asked for this assignment for different reasons to receive this order. My main motive was that I wanted to protect the employees of the Institute as long as possible from being called up. It concerned experts who could not have been replaced. Therefore, the placement of the order, its acceptance and performance was in the interest of the Institute, and only in the second instance in the interests of the Medical Inspector-

ate, which gave the order. It was expressly stated that this research order concerned a so-called fundamental research."

I shall skip no. 6 or at least no. 6. On page 3 of the document at the top I quote: "I never noticed that there was any thorough control, examination of the protocols, or, even interference in respect of the setting up of the experiments. I always gave Dr. Becker-Freysong the opportunity to get in touch with the experts, but here also I never noticed that more than general scientific interest was shown.

"7.) The reports were submitted in the form of short, scientific reports. The reports never contained any details about the experiments."

The rest of No. 7 and No. 8 I recommend to the attention of the Tribunal and I shall quote No. 9:

"I cannot imagine at all that a representative of the Medical Inspectorate could have given me any instructions in such a special technical question concerning the carrying out of the order for research."

Then the witness describes what support he got from the Medical Inspectorate and I should like to quote one sentence from this paragraph at the bottom of the page:

"There were never negotiations about the control or supervision of the research order; this would also have been quite unusual."

I do not want to quote any more from this document. I merely refer to the fact in No. 10 - the witness says control could have been exercised by a specialist, that is a pharmacologist - no ordinary medical officer. It bears the signature of the witness and was notarized by a Notary Public in Heidelberg on 2 May 1947.

Then there is attached to this document a copy of an accounting. If Mr. Hardy has an objection to my submitting this copy I shall withdraw this part of the document. I do not attach any great value to it. I attached it merely because the witness refers to this attachment in his document.

MR. HARDY: I have no objection, your honors, to the admission of

the attachment but unfortunately I do not have a copy of the attachment.

THE PRESIDENT: There is no copy of the accounting in the Document Book before me.

DR. TIEPS: Then I shall withdraw it, Mr. President.

DR. TIEPS: The next document is No. 71, on page 32, the exhibit will be 49. This is an affidavit by University Professor Dr. Hubert Moessen, of the 29 April 1947. This affidavit describes how he got a research assignment from the Medical Inspectorate. He says in paragraph one, 2 sentences after the beginning:

"This research order consisted of a purely financial support of the further work on a subject which I had already begun in 1936."

Then the witness describes how this assignment was issued. I can skip this part. The witness continues: "I never received any instructions as to the manner in which my order should be carried out. The research subsidy corresponded entirely with the assistance given by scientific organizations or pharmaceutical industries." The rest I recommend to the attention of the Tribunal.

The next document is No. 72 on page 375. I assign to it Exhibit No. 50. It is an affidavit from Physiological Chemical Institute Freiburg dated 2 May 1947 by Professor Joseph Kapfhammer. He also had an assignment from the Medical Inspectorate. He says that unfortunately he cannot give any exact dates because all his records were destroyed during the War. I shall quote from it, the last paragraph on the first page:

"I obtained the research assignment through the kind mediation of my colleague Prof. Buchner, who, at that time was in charge of the Medical Research Institute for Aviation in Freiburg. The theme originated solely from my own suggestion, as I had worked in this very field of metabolism of the liver for years."

Then the witness says that he had worked on this field years before that and that he was not merely working for the Medical Inspectorate but was working in the interest of science in general. In the

2nd paragraph on the second page of the document I should like to quote:

"I was in no way subordinated to the Medical Inspectorate by receiving this assignment. On the contrary, I had complete freedom of action; I was never given orders with regard to the progress of my work. No one ever checked the work I had done. I was restricted in one point only; I was to submit intermediate reports every three months but I treated this point so liberally that I delivered a short report concerning the state of my research work only 10-12 months at the most."

I can skip the next few sentences and I quote:

"Thus, the Medical Inspectorate did not exert any pressure whatsoever with regard to the research assignment so that I was able to work completely unrestrained and without being checked in any way."

The document is signed 3 May 1947 by a notary in Freiburg i/Br. / Breisgau.



DR. TIPF: The next two documents, Mr. President, No. 73 and No. 74, deal with a different subject. They deal with Professor Haagen. I do not believe I should offer these documents at this point because Professor Haagen is going to appear as a witness, and will be able to testify as to how long he was on leave from the Luftwaffe. If it should prove necessary in the course of the case I may offer these documents later.

Mr. President, I have now completed the presentation of evidence for the defendant Becker-Freyseng. All that remains is the examination of Professor Haagen, for which the Tribunal has already given its consent after the conclusion of the sea-water case, and in this connection I should like to offer a few more documents which I have received in the meantime, and which generally refer to Professor Haagen's work.

THE PRESIDENT: The documents referred to by counsel for defendant Becker-Freyseng may be offered later.

Has the Prosecution any rebuttal evidence to offer?

MR. HARDY: Not at this time, Your Honor.

THE PRESIDENT: Counsel may proceed.

DR. PELCKMANN: Dr. Pelckmann for defendant Dr. Schaeffer.

With the permission of the Tribunal I should like to call defendant Dr. Schaefer to the witness stand.

THE PRESIDENT: Defendant Conrad Schaefer will take the witness stand.

DR. PELCKMANN: Before the witness takes the oath I should like to submit a few documents which deal with the personality of Dr. Schaefer. These are documents about the political attitude of the defendant and his scientific qualifications. It is necessary to offer these documents, because the prosecution has made the assertion, for all the defendants, in considerable detail to explain the charge of conspiracy, that they were obsessed by Nazi ideology; that this ideology affected the medical men, especially the younger ones; that during their

studies they were trained in Nazi Ideology; that they belonged or had to belong to various Nazi organizations, and similar things.

Without going into the question of whether this argument is necessary for the charge of conspiracy I shall prove for the defendant Schaefer, at least, that these assertions are not true of him. I shall deal in these affidavits with another charge, that is that this Nazi ideology reduced the scientific work of the defendants to a low and that on the basis of this Nazi ideology the defendants, including the defendant Schaefer, were unable to perform experiments such as form the subject of the indictment here. I shall disprove these assertions too through these affidavits.

First, I should like to offer Document Schaefer No. 1. It is the German No. 20, the English Document No. 1. I was forced to introduce two different series of numbers, because by accident the numbering was not carried out in the same way in the German and English documents in the translation, and I shall always have to give different page numbers of German documents and English documents --

English Document 1, German Document 20, is to have Exhibit No. 1. This is an affidavit by Professor Dr. Hubertus Strughold. I shall read all of it.

"Dr. Konrad Schaefer was assigned as a junior grade or assistant physician to the Research Institute for Aviation Medicine, Berlin. Up to the end of 1943 -- at which time I went to Silesia to stay -- I frequently had opportunities to talk to him and therefore I am in a position to give information on his scientific capability and his personality.

"Scientific capability: Dr. Schaefer is a serious scientist who applied his thorough knowledge of the most modern methods of biological science to all problems with which he was confronted. In this manner he also carried out the scientific research assignments which he received from the Luftwaffe Medical Inspectorate. He also handled his investigations on the physiology of thirst in this way,

and it was due to this that his experiments on the development of Zeoloth for making sea water potable were crowned with success. He was not afraid of performing experiments on himself, and in 1942 he and two of his female assistants conducted a three-day thirst experiment. This experiment belongs in the category of heroic medical self-experiments and the three participants may be justly proud of it.

"Personality and political views: Dr. Schaefer is a very humane and socially minded man, a good friend and comrade and a modest character. He is very intelligent. In the Third Reich he was unlucky in his university career, as he was a pronounced antagonist of National Socialism. I had repeated examples of his views when I discussed politics with him. It was also due to his anti-Nazi views that he had to go into industry, where he worked successfully as a scientific department chief.

"As to his views on experiments on humans, I know from a conversation which I had with him in 1942 that he was decidedly against experiments the voluntary nature of which could be doubted for any reason at all. I therefore feel that, as far as I can judge from here, Dr. Konrad Schaefer cannot be involved in the matters now being pleaded in Nurnberg by anything but an unfortunate constellation."

Document No. 2 on page 3 will be Exhibit 2. It is an affidavit by Dr. Helmut Wuest, dated 23 January 1947. It reads:

"I have known Dr. Med. Konrad Schaefer, born 7 January 1911, for many years. We both studied at the same high school (humanistisches Gymnasium) in Landau/Pfalz, where we graduated in 1930. We were together for nearly all the semesters of our medical studies at Heidelberg, Innsbruck and Berlin universities. We were not merely chance school fellows and study companions, but were also close friends. I therefore have exact knowledge of Dr. Schaefer's work outlook and conception of life. Until 1940 when our paths were divided by professional duties, his political attitude was clear and distinct. It was in opposition to National Socialism. I know that up to this time Dr.



Schaefer did not belong to the Party or to any of its organizations. In all our political discussions he never failed to express his stark opposition to National Socialism. Shortly before taking our State Medical Examination in Heidelberg in 1935, considerable difficulties were created for us both by the National Socialist Students' Council which questioned our admissibility to the State Examination. The official charge against us was based on the fact that we did not belong to the Party or to any of its organizations or to the National Socialist Students' League."

As Exhibit No. 3 I offer English Document 3, German Document 24, English page 45, German page 52 and 53. It is an affidavit by Dr. Helmut Reichel from Bad Pyrmont:

"I met Dr. Schaefer through Prof. Juergens when I worked with them both before the war in the Nature Health Clinic in Berlin. I had no official connection with Dr. Schaefer. Through my friendship with Prof. Juergens, based on many years of joint work, I was well informed about the internal affairs. Prof. Juergens, as a world-famous hematologist, had principally scientific interests. He regarded the political point of view forced upon his subordinate colleagues in the clinic as false and irksome. In this connection Dr. Schaefer was mentioned to me as an exception and as a man who, although possessed of scientific abilities, did not approve of the political tendency at that time. Prof. Juergens was therefore always afraid of losing him.

"When Dr. Schaefer had to leave the Clinic, his departure was described to me as a confirmation of our fears.

"After all these years I cannot remember details about discussions which took place then. But I remember Dr. Schaefer as a man who dedicated himself to serious and conscious responsible research, and who went into private industry because his path to the State Clinics was barred for political reasons."



I should like to stop there.

As Exhibit No. 4, I shall offer English Document No. 4,  
German No. 25, pages 6 to 8. This is an affidavit by Dr. Hans  
Bruns:

"I make the following affidavit:

"I made the acquaintance of Dr. Konrad Schaeffer in 1935 at  
the Hydrotherapeutic University Clinic, Berlin, Marwickstr. 2.  
We were both working there as medical internes and later as  
voluntary physicians under Professor Rudolf Jaergens. Since  
Professor Rudolf Jaergens an internationally renowned hematologist  
-- a disease of the blood investigated by him on the Aland Islands  
was named after him "Thrombosthenia Jaergens-Willebrandt" -- mostly  
dealt with problems of hematology, we worked at first on such  
problems.

"While working together and also through our friendly relations,  
which lasted for several years until 1941 -- when I was drafted for  
military service -- I learned to esteem Dr. Schaeffer as an excellent,  
judicious, diligent and honest scientist with a knowledge of chemistry  
and physiology far exceeding the usual medical level. In all his  
scientific research work his self criticism and honesty stood out  
prominently so that all the works published by him are products of  
the most serious scientific research.

"My reason for fostering my friendly relations with Dr. Schaeffer,  
which by far exceeded the usual contact between two colleagues,  
was due in no small measure to his high conception of scientific  
honesty and fairness and to his high esteem of the medical profession  
which I share also, -- conception which surely prevented him, from  
a scientific as well as from a human point of view, from carrying out  
experiments on human beings which could have dangerous or even fatal  
results.

"My friendly relations toward Dr. Schaeffer were, moreover,  
influenced by a far reaching agreement in our political views.

"My own anti-Nazi attitude is to be seen from the attached

affidavit made by Mrs. Burti Schneider, at present in Zurich, Switzerland, at the welfare center for the victims of Fascism, Hildesheim."

I need not read all this statement, it will be Exhibit No. 5, it is Document No. 4-A, English pages 9 to 11. German 29. I shall read it.

I shall continue to read Exhibit 4:

"In his frequent long conversations Dr. Schofer often used drastic expressions against the prevailing system of that time and its leaders. I also confided to Dr. Schofer that I was engaged to a half Jewess, the then Mrs. Burgesat, now Mrs. Schneider. One may judge from this the extent of confidence I placed in Dr. Schofer and how convinced I must have been of his political reliability when I told him a fact which would have cost me more than my position at that time.

What infuriated me most was that Dr. Schofer, who had proved himself so outstanding a young physician interested in science, could not continue his career at the university, because he did not belong to the NSDAP or to any of its organizations. However, Dr. Schofer preferred to renounce a certain career at the university rather than bow to a system which he rejected as contrary to his political convictions.

Even after remonstrations by our mutual chief, Professor Jurgens, who greatly esteemed Dr. Schofer and was unwilling to lose his service as a collaborator and who told him that he could not keep him if he did not join some organization, Dr. Schofer remained true to his political convictions.

Dr. Schofer was removed from the university as voluntary assistant because he did not belong to any of the party organizations. When the removal took place I do not exactly know. I know only that I was most indignant at the time about this incident as it showed that when appointments were made to scientific posts at the university

political views and not scientific qualifications were decisive.

I say therefore with a clear conscience that Dr. Schaefer was not a physician or man possessed of any Nazi ideology."

Then, I should like to offer Document N. 5, pages 12 to 15. This will be Exhibit 6. It is by Mrs. Emilie Rabenbrock, Marburg-Lahn. I shall not read the entire affidavit, it begins:

"I, Emilie Rabenbrock, Marburg-Lahn..... have known Dr. Konrad Schaefer since 1939. My husband introduced him to me. My husband knew him already in 1936 and his anti national socialist political attitude which he had held. Dr. Schaefer worked as an assistant in the Charite, Berlin. He had been compelled, so he told me, to give up his position because of his political attitude, particularly as he refused to join the Party. He described what happened in the following words: "I was called to the Professor of my Institute and was asked why I had not yet joined the Party. To my answer that this would not agree with my political point of view, he told me to face the consequences as I could not longer stay in the Institute."

When I met Dr. Schaefer at that time, he had a job as scientific collaborator with the Schering AG, Berlin. On the occasion of our frequent conversations Dr. Schaefer openly and without any restraint spoke against National Socialism and the government. We often listened to foreign broadcasts with him and Dr. Schaefer was always very interested in them. I gathered from his remarks that Dr. Schaefer was an outspoken anti-fascist.

On 20 July 1944, Dr. Schaefer was with me in my Landsberg Wartho apartment. We had switched on the radio, and suddenly we heard the news about the attempt on Adolf Hitler. Assuming that the attempt had succeeded he was so overwhelmed with joy that he entirely forgot how dangerous the situation was. I remember that he said the following words "at last the bastard is dead". Unfortunately we were informed soon afterwards that Adolf Hitler was still alive.

Dr. Schaefer was bitterly disappointed by this news and he openly expressed his opinion about this. The chances of success of this attempt were discussed again."

I continue after two paragraphs:

"Dr. Schaefer was completely against all militarism in the medical field. While he was called up he hardly ever wore uniform, at least I hardly ever saw him in it. He was strongly against the use of specialist physicians as troop physicians and the use of practical physicians as specialist physicians, respectively, as because of their lack of experience they did not meet the requirements of their duties. According to all my observations and experiences, I must say that Dr. Schaefer had an ethical conception of the medical profession, i.e., to be a helper of his fellow men.

"Dr. Schaefer remarked that Germany would never win the war.

"On occasional visits Dr. Schaefer imitated Adolf Hitler perfectly for general amusement. He pulled part of his hair over his face and imitated his method of speech, his voice and gestures and made Hitler incredibly ridiculous."

The document continues under the same Exhibit No. 6, it reads as follows:

17 February, 1947.

"I, Emilia Rahnbrock,

"I would like to add the following to my statement of 30 January 1947:

"On the occasion of a conversation referring to an announcement circulated by the then chief physician, Dr. Conti, I asked Dr. Schaefer whether he and his wife would not have to visit this organization too, as the requested stated. Dr. Schaefer replied that this 'association of idiots' would not be visited by any decent physician and certainly not by him and his wife."

The next document No. 6, will be Exhibit 7, on page 16, by Johannes Howak, Hamburg:

"I have known Dr. Konrad Schaefer for many years. I met him



one day in Berlin at the bookshop of Ernst Doenig through a mutual friend, Mrs. Erika Koenig. Dr. Schaefer at that time was junior-physician in the Luftwaffe; in the ensuing conversation he expressed his hatred and antipathy for the Nazi regime. After that I frequently met Dr. Schaefer at the bookshop and at other meetings he expressed his great disgust about the regime, especially about the treatment of Russian prisoners of war and Jews and the drafting of juveniles and women into the armed services, so that I had to warn him, since he was wearing uniform, not to be so careless as to endanger both of us.

I must emphasize that neither Dr. Schaefer nor Mrs. Koenig knew that I was not of aryan descent so that he could not have talked against the Nazis so adversely just to please me. Our common hatred for the dictatorship led to a genuine friendship and after I had to flee from Berlin I met Dr. Schaefer here in Hamburg where he expressed his happiness about the end and told me that now, at last he could work as a free man and live for his research work. Dr. Schaefer is a great idealist who respects human life above everything and whose views are known to me as definitely anti-Nazi."

English Document No. 7 German #27 will be Exhibit No. 8, pages 17 and 18, page 65-66 of the German "Erwin Schulz, Berlin-Gatow.

"I have known Dr. Schaefer since 1941 and frequently met him as I was in charge of and looked after his sailing boat. Since I frequently spoke with Dr. Schaefer about the Hitler regime and the National Socialist ideology, I can but say Dr. Schaefer could not possibly have thought and acted along Nazi lines. He also knew that I listened together with foreign civil workers to English news broadcasts; he warned me to be careful as it might cost me my head. During his leave we listened together to foreign broadcasts. I was never able to detect Nazi tendencies during the ensuing discussions. I looked up Dr. Schaefer when I was drafted into the Navy at the end of 1944 to ask for his advice. He gave me the following instructions as to how to conduct myself. I should wait until the day of my drafting, then call a doctor and pretend that I was suffering from ischias. Dr. Schaefer explained to me exactly how I should act. With his help I was able to succeed in this deception so that I was released from military duty. If necessary, I can produce witnesses in this matter, Mrs. Dr. Glatzel, Spandau, Jacowweg, Antsarat, Dr. Franzmeier, Spandau, as well as Mr. Franz Pycha, Spandau, Weirmeisterhorn. The latter can also testify to our listening to news broadcasts.

"My political feelings are well known and established facts in the district in which I live, that I thought and acted as a Socialist before and during the Nazi period. Proof: my absolute opposition to military duty, my refusal of war work and my membership in the Legion for Human Rights."

Document 8, page 19, will be Exhibit No. 9. It comes from Erich Lehmann, chemist, Hannover-Herronhausen. I shall read many excerpts.

"I have known Dr. med. Konrad SCHAEFER for about 10 years. He had been recommended to me in professional circles as being well acquainted with pharmacology and as being an important scientific

chemist. At that time I was working on the Enzyme preparations which had just been introduced, and I was in need of an absolutely reliable medical man with the above-mentioned reputation to assist me with control experiments.

"In the many years during which I was permitted to work together with Dr. SCHAEFER, the specialized knowledge mentioned above was proved to the full. Our scientific work led to a very close friendship, so that I was able to gain a deep insight into his human and political views.

"I personally have been a Socialist for many years. I subscribed to this conviction even before the first World War, and I am a member of the German Social-Democratic Party. Owing to my political views I was violently opposed to the Nazis from the very beginning. During the World War of 1914/18 I served on the Western Front from the start until I was seriously wounded in the fall of 1917, and I was a confirmed pacifist when returning to my civilian occupation. I therefore was delighted to find in Dr. SCHAEFER a man who shared my views and who, in full agreement with me, disapproved of National Socialism and all it stood for. We agreed just as much on the subject of war and its consequences. SCHAEFER was a dyed-in-the wool pacifist. I do not think that until then SCHAEFER had ever known hatred; but he hated National Socialism with an unbelievably strong hatred and used to damn the system to hell.

"We often used to discuss these outrageous terrorist and dictatorial measures. At such times SCHAEFER used to express himself in the most violent terms against the despots. How often did we air the question, whether it would not be possible somehow to eliminate these bandits, in spite of everything.

"Dr. SCHAEFER consistently rejected the Nazi racial theory. When SCHAEFER was called into the army at some later date we were separated for a short time; however, Schaefer often wrote and told me about his life with the "Prussians". I could tell from the things he wrote how

difficult it was for him to adjust himself to the blind Prussian discipline. When Schaefer then was ordered back to Berlin, it always pleased me to see that he never wore uniform when in my company. He hated the army and the uniform as much as he hated National Socialism."

I skip the next two paragraphs.

"Publications by Jewish authors, even works which contained only brief references to such, were banned by the NSDAP starting from 1939. I had, at that time, to run through our whole archive in Berlin in order to sort out and dispose of all Jewish works on the subjects of medicine, chemistry and pharmacology. There was not a journal or review which would accept such articles, even excerpts of them for publication."

In order to explain this testimony, I offer Document Schaefer 38 as 10.

THE PRESIDENT: Before proceeding with this, the Court will be in recess for a few minutes.

(A recess was taken.)



Court 1

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Counsel may proceed.

DR. MARX: (Defense Counsel for the defendant Becker-Freyseng): Mr. President, I ask permission to make an explanation. The man called as an expert for Professor Schroeder, Becker-Freyseng and Beiglbosck, Professor Dr. Vollhardt, from Frankfurt, who was approved by the Tribunal, has now arrived. Professor Vollhardt is a scholar and scientist of international repute. Therefore, what he has to say will be of general interest and perhaps it will be very decisive in deciding the outcome of this trial and the evaluation of these three defendants. Professor Vollhardt has only a little time at his disposal. He is the Director of the University Clinic for Internal Medicine of the University of Frankfurt and must return on Wednesday to attend a scientific conference. I therefore ask the Tribunal to permit Professor Vollhardt to testify tomorrow morning at the beginning of the session so that he can testify as an expert.

THE PRESIDENT: Has the prosecution any objection?

MR. HARDY: The prosecution has no objection, Your Honor, but the prosecution would like to know substantially what this witness is going to testify to. Whether it will be the sea water experiments or other experiments.

THE PRESIDENT: Will counsel advise the prosecution as to the specific matters of the proposed witness's testimony?

DR. MARX: Mr. President, this expert will testify for us primarily regarding the sea water experiments. Perhaps, in addition, he will make a general statement regarding experiments on human beings, but that is not

Court 1

absolutely necessary and, in the main, he will confine himself to the points regarding sea water experiments.

THE PRESIDENT: Will defense counsel, as soon as possible, furnish a statement of the witness. The usual written statement that the witness will be called?

DR. MARX: Mr. President, I don't believe that that is expedient since the expert will testify here before the Tribunal. Questions are to be asked of this expert...

THE PRESIDENT: (Interrupting); I referred simply to the usual typewritten statement that such-and-such a witness will be called for certain defendants.

DR. MARX: We applied through the Secretary-General and the witness has been approved for Schroeder, Becker-Freysong and, so far as I know, for Dr. Steinbauer for Dr. Beiglboeck.

THE PRESIDENT: That will be satisfactory. The witness will be heard tomorrow morning at the opening of the Tribunal, but this usual form that the witness will be called at such a time should be filed for the records of the Tribunal. Counsel will have no difficulty in procuring that form.

DR. MARX: Very well, Your Honor.

MR. McHANEY: May it please the Tribunal, I am advised and believe that the expert witness to be called tomorrow will testify from original German documents or, at least, alleged original documents, concerning the sea water experiments. That is to say the defendant Beiglboeck has, in his possession, original charts and records concerning the experiments which he carried out in Dachau. If the witness is to testify concerning those original records and is to base his testimony upon them, I think

Court 1

that they will have to be introduced into evidence tomorrow so that he will testify concerning those documents. The prosecution has not received any copies of those original documents. I think we're entitled to them in order to be able to formulate our own questions to put to the witness and to permit our experts to study the originals. We're also entitled to twenty-four hours' notice on any documents which are to be submitted. I therefore request that, if it is true that this expert is to base his testimony upon alleged clinical reports prepared by Beiglboeck at Dachau, that they be produced today in their original form and presented to the prosecution.

THE PRESIDENT: Any original documents concerning which the witness will testify should be filed in the office of the Secretary General where they may be examined by counsel of the prosecution. If copies are available, copies should be furnished the prosecution today, but if copies are not available, the original documents should be filed in the office of the Secretary General.

DR. STEINBAUER: (Defense counsel for the defendant Beiglboeck); Mr. President, at great trouble to myself, I have found the originals of the records of these experiments and on the 20th of January I showed them to the expert of the prosecution, Dr. Alexander, in the presence of an American professor who was a specialist in this field, Professor Ivy, and both these men have returned the documents to me. Thereupon, I made them available to Professor Volhardt and I hope he will return them to me at noon and, at that time, I shall turn them over to the Secretary General. Thus, it will be possible to show them to the prosecution. However, it is impossible for me to

2 June 47-M-AX-8-4-Karrow-(Brown)

Court 1

make copies of these because a great many of them are just notes, partly charts and graphs and such things which it is technically impossible to reproduce. However, as I said the experts for the prosecution have already seen these documents.

MR. McHANEY: Well, of course, if the documents are in the possession of the expert they can't be made available today and we will not interpose any objection to calling the witness tomorrow. But, at the same time, we will require that we be furnished copies, which can be photostated very simply, for future study. I do not think it is true that we have seen all the originals of these documents. I am advised that Dr. Steinbauer even has the names of the people who were subjected to these experiments, yet I find no reflection of these documents in the document books so far submitted for the defendant Beiglboeck and, of course, it is quite important for the prosecution to have that information.

THE PRESIDENT: Counsel for the defendant Beiglboeck stated that these documents might be available to him at noon today and if they are, he will file them with the office for the Secretary General where they may be examined by the prosecution.

Counsel for the defendant Schaefer may proceed.

Just a moment.



THE PRESIDENT: I would like to address counsel for defendant Beigelbock. It was the intention of the Tribunal to instruct counsel that all of these documents, whatever they are, as soon as they arrive should be filed with the office of the Secretary General to be available to the Prosecution. That refers to all the available documents. Does counsel understand that?

DR. STEINBAUER: A part of these documents are already included in my document books Nos. 2 and 2, which will be put in evidence when the Beigelbock case comes up.

THE PRESIDENT: Of course, these documents that are available in Beigelbock's document book need not be filed in the Office of the Secretary General. They are already there.

DR. STEINBAUER: However, it is not necessary, for instance, in order to understand this whole matter for me to put in the names of the experimental subjects. It is quite enough for me to put in the numbers. However, we have nothing to conceal and nothing to hide. It is not necessary that the names of these unfortunate persons, who perhaps are still alive, should become public here so that they are available to the press. I, as a decent human being, feel myself obligated in the way in which the sterilized Polish subjects were protected from unpleasant publicity, I feel that the names of these people also should be kept from being made public. But if the Tribunal wishes I'll submit the list.

THE PRESIDENT: The Tribunal sees no comparison between these experiments and such experiments as those that were conducted by way of sterilization. If the proposed witness is to testify from documents containing the names of witnesses, then those documents should be filed in the office of the Secretary General with the others. If the subjects were not harmed by these experiments then there can be no harm to them if their names are mentioned from the witness stand and nothing will be lost with a few hours delay in making these names available.

DR. STEINBAUER: Very well. Counsel for defendant Schaefer may proceed.

DR. PELCKMANN: Your Honor, I had read Exhibit 9 in part. In this exhibit Mr. Lehmann certified that the publications of Jewish authors were strictly forbidden by the National Socialist Party, and that it was also forbidden to quote them. In this connection I put in Exhibit No. 10. That is Document 38, from which the following can be seen.

This is a scientific paper by the defendant Schaefer regarding the blood picture of white mice in experimental infections and chemical therapy. This is Document 38, and appears in the supplementary volume. The Prosecution and the Court have the document, but the interpreters do not. However, I shall not quote from it, so perhaps the interpreters can dispense with it. The work is entitled "The Blood Picture of the White Mouse in Experimental Infections and Chemotherapy," and on page 261 is a bibliography, and it is this bibliography which Dr. Schaefer appends to his work. This bibliography contains the names Levy and Lowenstein. At the conclusion of this paper there is mention of the fact that it was not possible to print colored reproductions because of the war situation. This proves that the paper was published during the war, that is after 1939, and the witness Lehmann in his affidavit has stated that at least since 1939 it was forbidden to quote Jewish scientific papers. Document 38 will be exhibit 10. I continue now in my reading of exhibit 9, Document 8, Exhibit 9, on page 21, the third paragraph from the last:

"In my opinion Dr. Schaefer is a research scientist with unusual intellectual gifts and ideas, of whom one may still expect great things."

I shall now skip the next paragraph and read the concluding paragraph:

"In my profession as a chemist and scientific worker I may say without flattering myself that I have become acquainted with almost all branches of medicine; I know clinical physicians and private

practitioners almost all over Germany, and therefore I am able to form an accurate opinion on a doctor. A doctor must, above all be an understanding human being who is able to comprehend and appreciate the needs of sick people. Only then his medical knowledge comes in. In a Hippocratic sense, Dr. Schaefer conforms to both of these conceptions. Extensive physiological learning and inexhaustible knowledge as a physician -- that is Dr. Schaefer."

The next document is Document No. 9. Page 23 of the English Document Book. This will be Exhibit 11. This is a photo-copy, and on the second page of this photo-copy there is Dr. Ilse Kuntze's affidavit of 2 January 1947, part of which I shall read:

"Since the Spring of 1943 I had been working on my Doctor thesis under Doctor Gerhard SCHAEFER. I have known Dr. SCHAEFER since 1936 and through his conversations with me and with others I learned to know him as a determined enemy of National Socialism. Of that period, I know too, that his refusal to join the Party or any National Socialist association compelled him to resign his appointment as assistant at the Hydro-therapeutical Institute in Berlin. He frequently voiced his anti-Nazi opinion so openly even in the presence of strangers, that we, his friends and acquaintances feared the consequences which this attitude might have for him and sometimes restrained him.

Neither by conviction nor in his bearing was he a militarist. After his draft into the Luftwaffe he accepted a position in aviation-medical research, as he himself told me at that time, only in order to be able to continue his private work at Schering A.G. and to escape the military restrictions to which a Truppenarzt has to submit. He detested wearing uniform. He therefore usually appeared in civilian clothes and wore uniform on official occasions only. He went into the Research Institute for Aviation Medicine only in order to deliver his reports. -- I estimate that that happened every month, since he worked in the laboratories outside the Institute.



At that time I was busy preparing my doctor's thesis on the molar concentration of the blood during thirst. My collaboration with SCHAEFER enabled me to see that his scientific methods were exceedingly exact and reliable. His long activity in the realm of pharmacology had accustomed him to the practice of trying out medicines and other remedies on human beings only after they had been tested chemically, pharmacologically and in experiments on animals.

I distinctly remember the following incident in the Fall of 1943, while we were inspecting the laboratories which were put at the disposal of Dr. SCHAEFER and myself in the Physiological Institute of the University of Berlin and discussed the preliminary results of our thirst experiments on voluntary experimental subjects, a Stabsarzt of the Wehrmacht was present, who, during a private discussion on the difficulty of procuring voluntary experimental subjects said, why not use inmates of concentration camps. Outraged, SCHAEFER rejected the idea with such emphasis that I secretly made signs to him to restrain himself since I thought SCHAEFER's remarks very hazardous, considering the rank of the Stabsarzt.\*

I shall read the last paragraph on another occasion.

I come now to the affidavit of Miss Ina von Boetticher, Document No. 10, page 36, of the English Document Book. This will be Exhibit 12. From this document I shall read first of all only the last two paragraphs; page 37 and page 38 of the English Document Book, because the rest of the affidavit I shall read in a different context.

\*As I lived for almost two years with the Schaefer family, I was well acquainted with the political opinion of Dr. Schaefer. Right at the outset he told me that he was obliged to work in industry because he had refused to join the party and was not allowed therefore, to hold an official position. It was for this reason that he lost his last position with a University clinic and therefore could not fulfill his greatest desire of establishing himself as University lecturer.



Time and again he expressed his regret about his. Dr. Schaefer frequently had arguments and violent political discussions with Dr. Feldt who had national socialist tendencies. He was not afraid to confess his anti-Nazi views to all the other members of the department and to justify these. He actually propagated these. Mr. Kaulisch and I were much impressed by it and we have only to thank him for not joining any organization."

Court No. 1

Document No. 11, page 39 of the English Document Book, I simply draw the attention of the Tribunal to it. It is of the same purport as the other affidavits and it will receive Exhibit No. 13.

Finally, from Document No. 12, page 41, I should like to read one paragraph. This will be exhibit 14. In this connection, I shall read into the record only the last paragraph. Let me say that this is an affidavit by Mrs Ursula Eloff and I quote .

"From the beginning of our acquaintance I gathered from his remarks that Dr. Schaefer was an opponent of National Socialism. This continued through the war. Dr. Schaefer possessed remarks which, as far as the ideas of that time were concerned, were absolutely 'opposed to the state.' And it was through this attitude that he occasionally came into conflict with our chief, Dr. Feldt, who was a convinced supporter of National Socialism."

This concludes my presentation of these documents, which I consider to be important in clarifying the defendant's political attitude and his scientific achievements. These two matters have been considered by the Prosecution important for all the defendants, including the defendant Schaefer.

The charge that the defendant Schaefer conspired with all the other defendants is supported by the Prosecution on the charge that Schaefer occupied a high position in the Hierarchy of the Health Services in Germany and that all the defendants knew of the crimes connected because of their official contact with one another and their common medical interests. This was said on December 12th by the Prosecution at great length. In interrogating Schaefer, I shall refute this on the basis of documents in which I in delineating

Court No. 1

his official position shall prove that he was in the Institute only on rare occasions, that he took no part in the Harnberg conference, etc. I can dispense with discussing the defendant Schaefer's career, that is set forth in its essential points in the affidavits.

Dr. Schaefer, after you left the Hydro-Therapeutic Institute in Berlin .....

JUDGE SEERING : By request of the counsel, the swearing of the witness was deferred , do you want him sworn now?

DR. FELCKMAN : Yes, Your Honor.

BY JUDGE SEERING :

Q.- What is your name ?

A.- Konrad Schaefer.

Q.- Will you repeat this oath after me :

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath).

JUDGE SEERING : You may sit down.

DIRECT EXAMINATION

BY DR. FELCKMAN :

Q.- Dr. Schaefer, after you left the Hydro-Therapeutic Institute in Berlin because you refused to join the Nazi Party , what position did you take ?

A.- I went to Schering Aktiengesellschaft to the Chemotherapeutical laboratory there and was under Dr. Feldt, who was chief of the laboratory at that time.

Q.- In what field did you work there during the course of the years ?

A.- In the field of chemical therapy, that is to say the examination of chemical substance to ascertain their effects on various diseases.

Court No. 1

Q.- Did you carry out animal experiments in this connection?

A.- Yes.

Q.- Many or few?

A.- Many.

Q.- Did you also carry out experiments on human beings?

A.- No.

Q.- Until what year did you function in this capacity at Schering?

A.- Until the end of the war, until the beginning of 1944 as Dr. Feldt's assistant and from then on as Director of the Department because during the spring of 1944 Dr. Feldt was killed in an air attack.

Q.- From March of 1944?

A.- Yes.

Q.- But in 1941 you entered the Luftwaffe; is that so?

A.- Yes.

Q.- How was it possible then for you from 1941 to 1945 to hold a position at Schering?

A.- After my period of basic training, which lasted a few months, I returned to Schering A.G. and I remained a soldier.

Q.- And when did you become an Unterarzt of the Luftwaffe?

A.- In the summer of 1942.

Q.- What is an Unterarzt of the Luftwaffe?

A.- That is one grade below a lieutenant; in other words a sergeant.

Q.- In this context, I may point out to the court that in Document Book No. 5, Document No. 177, Exhibit No. 133, there is the minutes of the conference of 23 May 1944 and Dr. Schaefer is mentioned as a participant in this conference.



Court No. 1

rence and under No. 14, Dr. Schaefer is designated in the English translation as a non-commissioned officer, which of course is not an officer.

How did you come to take up your activities in the serial medical research institute?

A.- In 1942, I was transferred to Jueterbog and assigned to the Research Institute for Aviation Medicine in Berlin at the same time.

Q.- You simply mention the name of Jueterbog; what was your position there?

A.- I was in the medical training and experimental department.

Q.- In this medical training and research department in Jueterbog what position did you occupy?

A.- None.

Q.- How is that?

A.- That was simply a formality at the Research Institute for Aviation Medicine, there were no military ranks or offices, only civilian offices and since I had to be officially accommodated in one way or another I was put into this or was transferred to this training and experimental department in Jueterbog, which paid my salary by money order to Berlin.

Q.- The Prosecutor, however, has assumed that there was some official connection between everybody who belonged under this table of organization to Jueterbog; is this assumption so and Professor Holzloehner also officially belonged to this department, does that mean you had official contact with Professor Holzloehner?

A.- No, that assumption is entirely incorrect. I heard here that Professor Holzloehner did not work in Jueterbog either, but mainly in Kiel. I do not know Professor Holz-

loehner at all nor can I even remember his person.

Q.- But, perhaps you sent reports to the Medical Training and Experimental Department?

A.- No, that never happened.

Q.- Was there any actual connection between you and this department which could be charged against you really by the Prosecution?

A.- None at all.

Q.- You said that you simply drew your salary from there by money order, is that so?

A.- Yes.

Q.- Now, to clarify this position of Dr. Schaefer, I should like to put in from Document Book No. 1, Document 13, this will be Exhibit No. 15, page 42 of the English Document book. This is an affidavit from Dr. Werner Knothe of Goslar. When Becker-Freyseng was on the stand and also through an affidavit, it was ascertained that Dr. Knothe was the director of the Medical Training and Experimental Department that I must state here, because unfortunately that statement is not included in the affidavit. I shall read the document, it is very brief:

"Dr. med Konrad Schaefer, whom I hardly remember personally, was not a member of the personnel of the Medical Experimental and Training Department of the Luftwaffe and never worked in Jueterbog either. It is possible that he was assigned to the department's payroll, this I cannot remember. The Medical Inspectorate sometimes put people on the budget appropriation of the department even if actually they had nothing to do with the department. The files of those people were kept in the office of the department or in the administrative offices of the Jueterbog aerodrome

Court No. 1

for purposes of administration and pay."

Let me again draw your attention to Document 177, Exhibit No. 133. This document you will certainly remember it, Dr. Schaefer was in the list of distribution that would subsequently be sent to the experimental department in Juetterbog, if that is so, can you state whether you ever saw this document?

A.- No, I never saw this document. That is to say that I saw it for the first time when it was shown to me during my interrogations.

Q Can you in this connection say whether you saw any of the documents which the Prosecution included in Document Book No. 5 as incriminating documents, particularly the originals of the documents on conferences, letters of Himmler's, letters from the defendant, Schroeder, etc? How was the compatible with your activities at the Aerial Medical Research Institute?

A All of these documents I saw here for the first time.

Q Now what is the significance of your assignment to the Aerial Medical Research Institute?

A That meant that I was to make my scientific capabilities available to this institute.

Q But you just said that during this whole period you were active in the Schering firm, even as a director of a department at the end. Now how can you do this and still be active in the Aerial Medical Research Institute?

A That was quite compatible. In the Research Institute there was only a limited number of positions. Consequently, the director of the Institute, Professor Strughold, received permission to carry out the work of the Institute in the laboratories of the Schering A. G. I asked for this permission and received it.

Q And this made it possible for you to stay always with the firm, is that so?

A Yes.

Q What was the relationship between the work you did for the firm and the work you did for the Institute?

A I could keep my previous position with the firm and in addition I did the work for the Research Institute.

Q You did them sort of incidentally, you say, on the side?

A Yes; they were a relatively small part of my total work.

Q How often were you actually at the Aerial Medical Research Institute in Berlin?



A About once a month.

Q Why were you there?

A To report on what I had done or to settle some formalities or to fetch apparatus.

DR. PELCKMANN: In this connection I might return to Exhibit No. 14. This is Mrs. Ursula Egloff's affidavit, and I may read the following from the first paragraph:

"From 1936 to 1945 I was a medical-technical assistant in the chemotherapeutical department of the firm of Schering A. G., Berlin. In 1937, Dr. Konrad Schaefer became a co-worker in the same laboratory. Dr. Adolf Feldt was our mutual chief. During this time, that is, even after he was drafted into the Luftwaffe, Dr. Schaefer was mostly present and at work in the laboratory, except when he was away on an occasional official trip."

I should now like to put in Document No. 14. This will be Exhibit 16, page 43. This is the affidavit by Ulrich G. Luft and reads as follows:

"During the period in which he was assigned to the Aviation Medicine Research Institute, Dr. med. Konrad SCHAEFER continued his civilian work with the firm of Schering A.G. in Berlin. While carrying out his duties for the Medical Inspectorate of the Luftwaffe, he was never actually in the Aviation Medicine Research Institute building itself, but worked in his laboratory at Schering and later on in rooms at the Physiological Institute of Berlin University. His connection with the Aviation Medicine Research Institute was purely of an administrative-technical nature, and he only appeared there every 4 weeks or so to obtain equipment etc. On these occasions he usually wore civilian clothes, and remarked to me that he did not like wearing uniform. I knew that Dr. SCHAEFER did not belong to the National Socialist Party. Various remarks he made concerning political events at that time definitely proved to me that he was no Nazi."

"From January 1944 until the end of the War I was frequently Deputy Director of the Aviation Medicine Research Institute for extensive periods and made the above mentioned observations in this capacity."

That was Exhibit 16; and now let me return, please, to Exhibit No. 9, Document No. 8, from which I should like to read another passage from the middle of the document, the last sentence of the second paragraph:

"He went to the Institute only once a month because he was working at the Schering Laboratory."

Q When you did come to the Institute, now, Doctor, whom did you speak to?

A Either with Professor Strughold, the director of the institute, or with his deputy. That was either Dr. Klarmann or Dr. Luft.

Q Was Dr. Strughold present?

A Frequently he was not present, and from the Autumn of 1943 on he was not there at all.

Q Where was he?

A He was at the branch office in Silesia which had been transferred to there as protection against air raids.

Q In other words, he was hard to get to?

A Yes.

Q What was your official relation to Becker-Freyseng, to Prof. Schroeder or to his predecessor Hippke?

A The Research Institute was subordinate to the Medical Inspectorate. Professor Schroeder or Hippke was the chief. Subordinate to him was the chief of staff. Then came the departmental chiefs.

Q Please name the names as you go on.

A The chief of staff was Kahnt; the departmental chief was Hertz, and subordinate to the departmental chief were the referats. But in how the Research Institute was specifically subordinate to the Medical

Inspectorate, that I do not know.

Q How often did you see Professors Hippke or Schroeder or speak with them?

A Hippke I saw once, Schroeder twice.

Q How did the orders that Schroeder issued or which were issued in his name reach you?

A First they were sent to the Institute, and the Research Institute informed me of them since I was not active in the Institute itself.

Q Did you currently receive such written communications, daily, or just what did happen?

A No. In unimportant matters I found out about these matters on the occasions of my visits to the Institute. In important matters I was called up by the Institute, which, however, was not always possible because in Berlin telephone communications were often disrupted for weeks at a time.

Q Were you the only collaborator, in this Aero Medical Research Institute?

A No. There were many collaborators who, however, did not work in the Institute building and whom I do not know today even.

Q You said not all of them worked in the building. Is it correct that only very few did so?

A Well, I had that impression, yes.

Q I now come to the freezing conference in October, 1942, in Nürnberg. At that time you were an Unterarzt and had been assigned to the Aviation Medical Research Institute for just three months, is that correct?

A Yes.

Q During that time did you know the numerous collaborators of that Institute?

A No.

Q How many did you know?

A I knew Professor Strughold and possibly Dr. Klarmann or Dr. Luft. However, I cannot recall that in detail today.

Q After this time, namely, October, 1942, until the conclusion of your activities, did you make the acquaintance of others? Did you make the acquaintance of many or few? I'm satisfied with the number of them.

A I made the acquaintance of a very few.

Q Did these few have anything to do with experiments which are counts in the indictment in this trial?

A No.

Q Whom of the gentlemen in the Medical Inspectorate did you know in October of 1942, in other words, at the date of the Nurnberg conference?

A I knew Professor Anthony and Dr. Becker-Freyseng.

Q You say you knew Professor Anthony. Will you, please, explain that?

A I saw him once when he gave me the order to speak on the thirst problem in cases of sea distress at the Nurnberg conference. That was an order on the part of the departmental chief at that time, Generalarzt Martius.



Q How did this order to you come about?

A In the Summer of 1942 I was told to work on the thirst problem in cases of sea distress and in the meantime I had collected some literature on the subject and had oriented myself by way of animal experiments.

Q What was the content of your paper read in Nurnberg?

A This was a report of a bibliographical nature on works by German and foreign scientists concerning the problem of salt and the water content of the body.

DR. PELCKMANN: I put in now Document No. 15 which will be Exhibit No. 17, listed on Page 44 of the English Document Book. This is the report on Dr. Schaefer's paper which is to be found in the official minutes of that Nurnberg conference. Since the prosecution put in evidence only fragments of the total report on that conference, but did not put in Dr. Schaefer's paper, as contained in the official report of the Nurnberg conference, I shall do so now.

BY DR. PELCKMANN:

Q In the session of the 12 December the prosecution asserted that you, Dr. Schaefer, read a report on experiments that had been carried out on human beings. Is that correct?

A No, that is not correct. I, until that time, had carried out no experiments on human beings.

Q And consequently you did not report on such experiments?

A No, I did not.

Q Did you report on experiments that others in the Luftwaffe had carried out?

A No, I didn't.

Q Who of those who were present at the Nurnberg conference did you know, Dr. Schaefer? I am referring now to the list of those who attended, which has repeatedly been cited by the prosecution. This is Document NO-401, Exhibit 93. Presumably this is on Page 50 of the English copy.

You don't have to go through the list in detail, but let me just ask you, Doctor, whom did you know who was at that conference?

A I knew Professor Anthony whom I saw on the occasion that I just described; and I knew Becker-Freysong and Professor Strughold.

Q You did not know Professor Huebner?

A No, I didn't.

Q You know that the prosecutor, on the 12 of December 1946, for the first time, and then a few days ago on the 27th of May, for the second time, asserted that Professor Huebner, who appears in this list, is the same Dr. Huebner as the one who later took part with Schroeder in the sea-water experiments. You also know that this error was corrected and that at the conference there was a Professor Huebner but that the man who appeared as an expert in the sea-water experiments was a Professor Huebner from Berlin, not the same man. Is that correct?

A Yes, that is so.

Q Then Professor Huebner was not at the conference?

A No, he wasn't.

Q Whom of your co-defendants do you know?

A Professor Schroeder whom I have seen twice. Then I believe I saw Professor Rose somewhere or other. In addition I know Becker-Freysong and Professor Beiglboeck.

Q You were an Unterarzt in the Luftwaffe at the Nurnberg conference. There were many other participants. Were others present who did not have officers' rank?

A Yes, there were a few there.

Q How many? One, two, three?

A I should estimate four or five.

Q And how many attended the conference as a whole?

A About seventy.

Q Did you attend the conference with Dr. Becker-Freysong?

A No, I didn't.

Q Is the reason for that this, that the officers sat in the

front rows and you in the back?

A Well, that was one reason. Moreover, Dr. Becker-Freyseng was very busy at this conference. Moreover, I was so unacquainted with the other participants at the conference that I didn't meet Professor Becker-Freyseng there nor any of the others actually.

Q We have heard here about your attitude toward the army and military matters. Did you feel at home there at that meeting, as a non-commissioned officer?

A No, I didn't; and I don't think any Unterarzt in the German army felt at home in the company of officers because up to the rank of Sergeant a soldier was, so to speak, second class human being, in comparison to the officers.

Q Did you hear Holzlochner's and Rascher's statements at the conference?

A I cannot recall neither Holzlochner nor Rascher nor what they said.. I must say that I did not hear the papers read on the first day of the conference because they were exclusively papers dealing with cold. Neither before nor after that time had I had anything to do with cold. Moreover, I had not yet fully prepared my own paper and busied myself exclusively with it.

Q How is it that you had to prepare a paper?

A The period I had in which to do so was relatively short. Moreover, my job at Schering meant that I had a great deal to do and this paper was to be particularly well prepared since it was my first public appearance and the audience consisted solely of persons of scientific renown and in high ranking offices.

Q Could it be said that you had stage fright?

A Yes, that could be said.

Q You do not recall having heard Holzlochner's or Rascher's reports?

A No, I don't.

Q After reading your paper, did you hear anything about these

reports, Holglochner's or Rascher's reports, or the experiments that preceded them in conversations with private persons?

A No; I had no private discussions with the other participants in the conference at all.

Q Good. Did you perhaps speak with Professor Becker-Freysong about that report?

A No.

Q Then that is all you have to say about the Nurnberg conference?

A Yes.

Q Did you take part in other conferences? Dr. Becker-Freysong stated when he was on the stand that there were roughly twelve such conferences.

A I took part in no other conference at all.

Q Now, to return to your paper, what conclusions did you arrive at in your paper? Perhaps you would like to quote something from your paper to shorten this matter?

A This is Document 15, Page 44 to 53. On Page 52 of the English Document Book under No. 2 it says:

"2. Measures to be adopted when combatting death from thirst:

- a) do not drink any hypertonic sea water,
- b) take as little nourishment as possible, with the exception of dextrose,
- c) use drugs as sparingly as possible, and no drug recommended for quenching thirst,
- d) do not bathe in sea water,
- e) take as much fresh water as possible, which contains only a little salt."

From this it can be seen that I always recommended not drinking any sea water.

Q Did you continue your research after you read your paper?

A Yes.



2 Jun-44 MB-12-5-Goldberg (Int. Brown)  
Court No. I, Case No. 1.

THE PRESIDENT: Counsel, at this time the Tribunal will be in recess until 1:30.

(A recess was taken until 1330 hours.)

AFTERNOON SESSION

(The hearing reconvened at 1330 hours, 2 June 1947.)

THE MARSHAL: The Tribunal is again in session.

KONRAD SCHAEFER - Remained

DIRECT EXAMINATION (Continued)

BY DR. PELCKMANN (Counsel for the Defendant Schaefer):

Q. Dr. Schaefer, first of all, I have to ask you to come back to something you said before. You spoke about the position of the German Unterarzt. It was perhaps a clumsy formulation, which could make a wrong impression. When I asked you how you felt at that meeting, among the higher ranking doctors, you said something about how an Unterarzt must feel among such higher officers. Will you please explain again why you did not feel quite at ease?

A. I meant by so saying that a person of academic training, that is, a physician, who has the rank of a sergeant is in a rather unfortunate position and is dissatisfied a priori. This applied in particular to my own case, since I basically disliked military subordination.

Q. I only wanted to correct the generalization which you drew. You followed up that problem after that meeting. What did you do?

A. In the subsequent time I carried on a large number of animal experiments, which were to show the influence of seawater and different forms of nourishment upon the animal organism. In this case the animals used were rabbits. I was able to save some of the records of my experiments and I should like to ask you to submit them in evidence here.

Q. What period of time do those experiments cover, roughly?

A. The experiments cover the period from the end of 1942 until the end of 1943.

DR. PELCKMANN: I should like to submit English Document 16 as Exhibit 18. The pages in the English Document Book are 54-62. That is still Document Book No. I.

MR. HARDY: In my copy of Document Book No. I, Your Honor, Document No. 16 is not here. It goes as far as Document No. 15. I don't know whether your document book contains the same documents or not.

THE PRESIDENT: Our document book contains No. 16, notes on animal experiments by Schaefer, pages 54-62.

MR. HARDY: It has that listed in the index, your Honor, but it doesn't have the document itself in the contents.

THE PRESIDENT: These documents in my book are simply charts. I assume these were No. 16, I don't know.

DR. FELDMAN: They are merely charts, your Honor, that is correct.

MR. HARDY: Might I ask Defense Counsel what he is attempting to prove by use of these charts? These charts don't elicit any data on experiments that were conducted at Dachau or any experiments that are at issue in this trial. It seems to me that they are animal experiments. I can't see the materiality of them in this connection.

DR. FELDMAN: The Prosecution is charging all the defendants, including the Defendant Schaefer, with having used non-scientific methods. The Prosecution spent a considerable amount of time trying to prove this one charge, and I want to prove that in occupying himself with the thirist problem and with the task of finding a method of taking the salt out of sea water, the Defendant Schaefer proceeded in a strictly scientific manner, so that this particular charge does not apply to him and that for that reason he, of course, also rejected the Berka method, and his rejection of the Berka method was for scientific reasons. I shall therefore have to show generally how scientifically Schaefer worked and, particularly, how scientifically he worked on the problem for the solution of which he is prosecuted here.

MR. HARDY: After hearing the remarks of Counsel, Your Honor, I object to the continuation of the examination using this material. I don't see the materiality of whether or not Schaefer conducted himself in an ethical manner in other experiments. The point at issue here is whether

or not he is implicated, whether or not he took part in the plans and enterprises involving the seawater experiments at Dachau. The Prosecution charges that he was implicated therein -- the two methods were to be used at Dachau and he was a party to the crime. I can't see that whether or not he acted ethically from the time he graduated from medical school until the time he became involved in this criminal plot has no bearing here.

DR. PELCKMANN: If the Prosecution would be so kind as to tell me in somewhat more detail, at least once, why the Defendant Schaefer is responsible for the application of the Berka method in the experiments, then I could limit my defense much more intelligently. But as the Prosecution only lets me infer what it considers to be incriminating, I must make my defense as sure as possible and, therefore, must bring evidence for, first, the personality of Schaefer, second, his scientific achievements generally, third, his scientific achievements in the question of the solution of the thirist problem, and fourth, in connection with the invention of the Wafatit method, and fifth in the rejection of the Berkotit method.

THE PRESIDENT: The objection of the Prosecution to the admission of these charts comprising Schaefer Document 16 and the documents will be received in evidence. What number do you assign to this exhibit?

DR. PELCKMANN: No. 18, Mr. President.



MR. HARDY: I trust, your Honor, that I will be supplied with a copy of Document No. 16 in due course.

THE PRESIDENT: Certainly. Counsel for the Defendant Schaefer will see that the Prosecution has a copy of this document, or furnish one to the Secretary General, who will furnish it to the Prosecution.

DR. PEICKMANN: Mr. President, if the General Secretary will do this — I was not informed that the Prosecution had no copy.

THE PRESIDENT: With reference only to these photostatic notes — those notes comprise the documents.

DR. PEICKMANN: They are merely charts supported by two affidavits, which I shall read immediately.

JUDGE SEHRING: Doctor, I understand from what you say that these photostatic papers comprise Exhibit No. 18. Is that correct?

DR. PEICKMANN: It is pages 54 to 62 of the English copy, Your Honor — that is Exhibit No. 18. Then I should like to return to Exhibit No. 12, page 36 of the English document book. I should like to read the following from Miss von Boetticher's affidavit, the first paragraph:

"I, Ina von Boetticher, 10 January 1939, joined the scientific department of the firm Schering A.G., Berlin-Charlottenburg, as a technical-medical assistant. At that time Dr. Feldt was chief of the department; Dr. Schaefer, his assistant, whose laboratory assistant was Mr. Kaulisch. My main task was to make animal experiments, and, as this work for Dr. Feldt did not take up all my time, I frequently also worked for Dr. Schaefer, who could explain everything particularly well and whose work was always interesting. I constantly carried out hunger and thirst experiments on rabbits and mice for him, after Dr. Schaefer had again taken up his work with Schering in the spring of 1942, following upon a few months of training after being drafted to the Luftwaffe (autumn 1941)."

Then I should like to add to the charts Document No. 39 which will be Exhibit No. 19, and may I be permitted to read a few

pages only out of this affidavit.

(Int. Wartenberg)

I ask you to excuse me for a moment. I shall find it in a minute.

It begins: "Dr. Konrad Schaefer, M.D., during a very heavy air raid on Berlin during the night of 22-23 November 1943, which destroyed almost the whole Hansa-quarter, lost his apartment and all his property." Excuse me. I believe the Court and the Prosecution have the supplementary volume.

THE PRESIDENT: The Tribunal has this supplementary volume.

DR. FELCKMANN: It has been translated. It must be just an oversight that the interpreters did not receive it. I have just given them a copy of the translation.

"My husband and I received the Schaefer family into our house, and I thus became very well acquainted with Dr. Schaefer and his wife. From that period until the end of the war I assisted Dr. Schaefer in sorting out the literature and undertook his written work, which consisted chiefly of copying notes on the experiments of Mr. Kaulisch and of dictation into the typewriter. The copies of the notes on 'Schaefer's Animal Experiments' (hunger and thirst experiments with rabbits), Document No. 16, and the two last tables of Document No. 18 regarding the compilation of the results of thirst experiments on voluntary subjects, the originals of which were shown to me by Counsel, Attorney-at-law Felckmann, were drawn up by me.

"Dr. Schaefer dictated to me in May 1944 his views on the records of the experiments of Oberarzt von Sirany, on making sea water potable by Berke (Documents No. 26 and 27), the originals of which I was also shown by Attorney-at-law Felckmann. Through this collaboration I received the impression that Dr. Schaefer was a very conscientious and serious research worker. His zeal often made him work untiringly throughout the night."

BY DR. PEICKMANN:

Q This for the identification of the tables on the animal experiments, Exhibit No. 18. Dr. Schaefer, did you not also study the thirst problem by means of experiments on human beings?

A Yes, during the course of 1943 I carried out some hunger and thirst experiments on voluntary human subjects who were free. They were technical assistants who in part were working for me. The experiments showed that while continuing one's full work one can very well hunger and suffer thirst as long as four days without suffering from it mentally or in the ability to concentrate.

Q In order to prove this, I submit the affidavit of Dr. Kuntze, which I have already introduced as Exhibit No. 9. I ask to be allowed to read now only the last sentence from this affidavit. It is pages 23 to 35 in the English Document Book. The last sentence reads as follows: "In 1943 I carried out for my doctor's thesis simultaneous hunger and thirst experiments, lasting three to four days, on myself and other persons. I enclose the results of these experiments and concentration tests." These are the following pages attached to this affidavit.

DR. FELCKMANN: I ask farther to be permitted to introduce into evidence Document No. 17, page 63, English document book, as Exhibit 20. These are records of the experiments - the hunger and thirst experiments - carried out on a Miss Gerda Maria Schmidt. Likewise, Document No. 18 as Exhibit 21, pages 70-80. These are records concerning experiments on Miss Irgerd von Boetticher. And, finally,

I ask permission to refer again to Document No. 10, affidavit 12, the affidavit of Miss Ina von Boetticher, from whom I just introduced the record of the experiment as Exhibit 21. From this document, that is Exhibit 12, I should like to read the following, on page 36 beginning with the third paragraph of the affidavit: "After the animal experiments, thirst experiments on humans were also carried out. I myself volunteered three or four times, just as some of my acquaintances and once my sister did. We found the experiments most interesting and suffered no harm as a result. During the first two days one had really only a sensation of hunger, which then changed to thirst. Once I fasted and thirsted for four days, usually for three days. I went about my work at the laboratory as usual, staying home only on the fourth day, because I was very weak and depressed, which however passed immediately after drinking. Naturally I observed the regulations strictly and really took neither food nor drink during the experimental period, because I knew that the experiment would otherwise have been absolutely senseless. I believe it possible to go without food or drink for one or two days longer if one can remain in bed.

"All these hunger and thirst experiments were carried out by Dr. Schaeffer for the Luftwaffe; otherwise he continued working for the firm Schering."

Q. Only one thing for clarification, Dr. Schaeffer. With these experimental subjects you experimented neither with Wofatit nor with Berkatit, because you hadn't proceeded that far yet?



A. Yes, that is correct.

Q. How did it occur to you to occupy yourself with removing the salt from sea water?

A. All theoretical considerations and all practical experiments showed that sea water is not usable. Therefore, it was of course natural to consider a method to remove the salt from sea water, since in many cases one is not able to take along sufficient fresh water.

Q. And if one has no fresh water one must remove the salt from sea water?

A. Yes.

Q. About this development of the research of Dr. Schaefer I submit the following documents: Document No. 19, on pages 81-83 of the English Document Book. It is to be Exhibit No. 22. This is an affidavit of Dr. Griessbach, Dr. Lauth, and Pahl. It reads: "For many years the treatment of water, in particular by absorption preparations, was a scientific field of work in the inorganic branch of the Wolfen dye works, in which we are employed."

The Wolfen dye works belonged to the I.G. Konzern, I may add.

"In the summer of 1943 we were assigned the task of making salt water potable for use in the rescue at sea of airmen, submarine crews, etc. A research assignment for this was issued by the Luftwaffe. Unterarzt Dr. Konrad Schaefer was commissioned as an expert for this work by the Research for Aviation Medicine.

"At the same time the Navy was also interested in this problem, and a similar development order was issued by the OKM.

"The I.G. itself undertook to pay the cost of the research work, including the expenses for those men detached from the Wehrmacht for work in Wolfen. No other kind of financial agreement, was made, either with official agencies or with any of the participants.

"The process developed involved the removal of the salt from the water by using the special preparations for this purpose to absorb the calcium,

magnesium, and alkali content and to precipitate the chloride and sulfate content in the form of insoluble salts. The desalting was so effective that a compound was achieved with a salt content below that of a physiological sodium chloride solution. The water was not exactly tasty, but was de-salted enough for really successful use.

"Certain doubts, expressed in particular by Dr. Schaeffer, led to experiments concerning eventual silver and barium ions in purified water. The tests, however, disproved the existence of medical scruples in this direction.

"Otherwise the problem was dealt with on a strictly scientific basis, and two applications for patents were filed.

"By late fall 1943 the process was developed to such an extent, that at a lecture given by Dr. Schaefer no criticisms were raised by the Medical Inspectorate. Thereupon, at the beginning of 1944, Wolfen filed an application for the establishment of a manufacturing plant.

"At first, however, no order for this was given. Later on we learned from Dr. Schaefer that another method had recently been recommended which had first to be tested. He hinted that according to observations made with tomatoes it had something to do with mixtures of fruit juices, etc. Dr. Schaeffer said that he had objected to this method, as it was useless from a medical point of view. But his objections were not sustained. In view of the scientific facts we had to agree with him.

"Later - at the beginning of 1945 - Dr. Schaefer's (and also our own) views on the suitability and incontestability of our process were confirmed, when news reached us from England and America, that the same method was being used there. The periodical "The Illustrated London News" published research reports of the Royal Air Force Physiological Laboratory, the Ministry of Aircraft Production, and the English Permutit Company. At the same time publications appeared in Sweden to the effect that in America also the Permutit Company, New York, had de-salted seawater in a similar way.

"The effect achieved with the Anglo-American method was not so far-reaching as that achieved with ours. Apart from the fact that our remaining sodium chloride content was only half that of the Ferratit Company, we also achieved an almost complete elimination of the sulfate content, while with the Ferratit process the sulfate content remained in the water. We had occasionally voiced our intention of not removing the sulfate from the water. Dr. Schaefer, however, raised objections, pointing out the disadvantage of a laxative effect of the sulfate content.

"On the whole we can state that in the discussions with Dr. K. Schaefer we always had the impression that he was a serious scientist and a conscientious medical man.

Dr. Griesbach

Dr. Leuth

Dr. Pahl\*

This already states in detail that the Wofatit method, which Schaefer recommended was unobjectionable and was the best method that existed. Now, turning to Document 20, page 81 of the English Document Book, excuse me, page 84 of the English Document Book. This document confirms that at the request of Schaefer the experiments regarding the possible damage of the potable water produced with Wofatit were carried out. Dr. Schaefer, have you turned to that page in the document, yourself?

A. No, I haven't.

Q. I should like to quote from the end of Document 20 - Exhibit 23- it says: "Summary: When preparing potable water from sea water by means of Wofatit SW, no silver or barium ions appear in the drinking water either if the given proportion of Wofatit to seawater, i.e. 1:5, is increased or reduced, nor if diluted seawater is used, nor if sea water of a higher temperature is used. Only after the water has been filtered may any sort of additions be made or may the drinking water be used for cooking purposes."



THE PRESIDENT: What number document is that?

DR. FEELMANN: That is Document No. 20, Mr. President, on pages 84 to 88, Exhibit 23.

THE PRESIDENT: I don't find in my document book, the portion you read.

INTERPRETER: Your Honor, at the end of page 88, the last paragraph on page 88 - summary.

THE PRESIDENT: I have it now.

DR. FEELMANN: I read only the summary at the end of the document.

THE PRESIDENT: I understand, Counsel.

DR. FEELMANN: Thus, Dr. Schaefer also considered the possibility that seawater with a low salt content is found, for instance in the Baltic, and if one also considers the temperature; then the chemical process is also so that the water which one obtains is potable and is not dangerous.

Now we turn to Document 21. This is to be Exhibit No. 24. It is on pages 89 to 90 of the English Document Book. This is a document from Dr. Schuster.

MR. HARDY: If it please your Honor, might I ask Defense Counsel if this purports to be an original copy of a letter? There is some difficulty in the presentation of documents here. In each instance in the past two days, these original German documents that are being submitted are not authenticated in the manner as set forth by the Tribunal. This one here has no authentication on it whatsoever. Due to that fact, it gives cause to doubt the authenticity, and I would like to submit it to the Tribunal for their perusal. It may be that Dr. Feilmann can in due course receive a certificate of authenticity and offer it at this time provisionally.

DR. FEELMANN: May I make the following explanation? As is apparent from the date on the document, it is of 10 February 1944, and the signature here on the original is by Dr. Schuster; it is a document in the same way as a document that the Prosecution submits from the year 1944 from, let us say, Himmler or any other person who is not here as a



defendant or as a witness. It is an original document, and, of course, I am not in a position to certify the signature, because this Dr. Schuster is not available.

MR. HARDY: Your Honor, this document is addressed to the Defendant Schaefer, and it could be duly authenticated by putting it to the Defendant and having the Defendant identify same, but I am merely pointing out that for the sake of this trial and other trials in the future, we have prescribed regulations, and if possible we should like to insist upon the Defense counsel adhere to the regulations of the Tribunal in that all German documents be duly authenticated as set forth in the regulations of this Tribunal. It creates quite a problem, and it is one that is more important, I think, than even the certificates on affidavits.

BY JUDGE SEERING:

Q. Witness, are you familiar with the document which your counsel now asks the Tribunal to receive as Schaefer Exhibit No. 24?

A. Yes, Your Honor, I received it at that time.

Q. You can identify this original exhibit as being a letter received by you in due course of correspondence?

A. Yes, Your Honor.

THE PRESIDENT: The Secretary may return this document. This document is admitted in evidence.

DR. PELCKMANN: It is to receive the exhibit number 24, Your Honor.

Dr. Schaefer's critical examination of his preparations continued; this is proved in particular by Exhibit 24. Dr. Schaefer wanted to assure himself that even if it was applied unscientifically, the person who used Wofatit would not suffer any harm. The writer of this letter asked Dr. Schaefer to conduct experiments regarding the effect of hydrochloric acid in the stomach on Wofatit.

Number 2 in the document shows that Wofatit which has previously been treated with sea water does not give off any barium.

THE PRESIDENT: The document reads, "sea water that had been previously treated with Wofatit."

DR. PELCKMANN: I am only referring to paragraph numbered 2. The paragraph numbered 1 in the document concerns the poison effect of pure Wofatit which has not been brought together with sea water. Dr. Schaefer, for instance, counted on the possibility that a soldier, a pilot, did not have a vessel and therefore could get the idea of swallowing a handful of Wofatit and then afterwards drinking the sea water. In regard to this, the paragraph numbered 1 of this report of Dr. Schuster says that this too is entirely harmless.

These complicated chemical explanations, however, are made quite clear by Document No. 22, which I would like to introduce as Exhibit No. 25. It is Document No. 22, pages 91 and 92 of the document book. It is an affidavit of Professor Dr. Fritz Eichholz, professor of the University

of Heidelberg, and it reads as follows:

"You want an expert opinion about the experiments carried out by Unterarzt Dr. Schuster. In these experiments the effect of hydrochloric acid on Wofatit is investigated according to the question of whether free barium can appear in the gastric juice when Wofatit has accidentally been taken. Dr. Schuster finds with one gram of Wofatit a maximum value of approximately 2 milligrams of barium. One would have to take about 100 grams of Wofatit before the very lowest toxic dose of a soluble barium of 0.2 grams would be free in the gastric juice, and one would have to take Wofatit by the kilogram in order to reach the lethal dose of two to four grams, supposing that the solubility of the barium Wofatit in the gastric juice is not higher than appears from Schuster's experiments. We have therefore chosen a direct course and have fed Wofatit to rats. The animals received, per 100 grams, 0.4 grams of barium zeolith and silver zeolith. The animals did not show any striking injuries. In a second series of experiments the same doses of Wofatit were given, together with 1 cc, 1/10 hydrochloric acid. In this case, too, nothing of importance was observed. Converted for the case of a man weighing 50 kilograms, this shows that doses of approximately 200 grams of Wofatit with or without hydrochloric acid are harmless. We therefore conclude that the chemical properties of Wofatit have never resulted in any considerable toxic effect being observed.

"I therefore confirm that even if the filter does not function sufficiently the inorganic elements in the water could be introduced into the digestive system without any danger."

Documents 23 and 24 show further very careful experiments which Schaefer carried out regarding all possibilities of a harmful effect of his preparation.

I ask you to receive Document 23 as Exhibit 26, and Document 24 as Exhibit 27. The documents, Exhibits 26 and 27, show the experiments which the laboratory assistant Kaulisch carried out in accordance with Schaefer's instructions. Kaulisch reared bacteria strains from the North

See and observed the effect of Wofatit upon them. His research demonstrated that Wofatit kills bacteria very effectively.

After the conclusion of all these experiments - about which it can be said that they were carried out with unusual scientific exactness - it was no longer necessary for Schaefer to test his method any further.

In conclusion, however, I would like to introduce Document 25 as Exhibit 28, which is on page 101 in the English document book. This is a questionnaire, with the answers. It originated from Professor Ivy, the vice president of the University of Chicago, and it is dated 15 April. Of course, I received it in the English language. I had hoped that it would be translated into German for the German document book but unfortunately this was not done. For the information of the judges and the prosecution it is in the English original in the English document book; however, in the German document book it is also in English, but nevertheless I would like to read the letter.

MR. HARDY: May it please Your Honors, I might state that Dr. Ivy will be here in a matter of a week or two. At that time the prosecution will present Dr. Ivy here as an expert witness and Dr. Pelckmann may well conduct his examination; I know well that he will examine Dr. Ivy if Dr. Ivy is here as a witness. In order to avoid the confusion of having to consider this document in both languages, he could merely offer it as it is now and avoid having it translated, because the witness will be here and testify and it will be in the record at that time.

DR. PELCKMANN: I thank Mr. Hardy for the suggestion which he has made. However, I believe that I can waive the examination of Professor Ivy if I may read the questions which were put and his very precise answers. I believe that it would expedite the trial. If clarifying questions on the part of the prosecution or on the part of the defense should still be necessary afterwards, they may be put, perhaps, when Professor Ivy appears here.

THE PRESIDENT: Counsel may proceed in the manner indicated. Does counsel himself read English?



DR. PELCKMANN: Yes.

THE PRESIDENT: You may proceed.

DR. PELCKMANN: Thank you.

"I herewith submit my answers to the questions submitted by Horst Palockmann, Defense Counsel for the Defendant, Dr. Konrad Schaefer,, whom I interrogated on 22 January 1947.

"1. Question. Do you know the method for removing the salt from sea water recommended by Dr. Schaefer during the War?

Answer. I am familiar with the theoretical method which Dr. Schaefer said that he recommended for use in removing the salt from sea water and developed with the I.G. Farben Industry during the War. I did not see and examine chemically the actual product.

"2. Question. Is it the same in principle as the method you invented, which is now being used by the U. S. Army?

Answer. The theoretical method described by Dr. Schaefer is essentially the same as that being used in practice by the U. S. Army and Navy.

"3. Question. Do the methods recommended by Schaefer correspond to the latest developments of Inorganic Chemistry?

Answer. The method described to me by Dr. Schaefer represents in principle one of the best methods for removing the salts from sea water and utilizes one of the latest developments in inorganic chemistry which apply to the means for removing salts from sea water.

"4. Question. Before Schaefer recommended the method, was a chemical analysis made to show (1) that neither free barium nor silver are present in the drinking water, and (2) that the salt content of the sea water was completely eliminated by the method? Are these results sufficient guarantee that the water is completely harmless and fully suitable for use as drinking water?

Answer. I was informed by Dr. Schaefer that he had made chemical analysis of the water which resulted after the sea water was treated by his method and found to be free of the salts in sea water as well as barium and silver. It is strongly presumptive that this is true because that is what any chemist or scientist would do to ascertain if the method for desalinating the sea water was effective. It is the sole

reliable means for developing any method for desalinating sea water. Such results would be entirely adequate for determining whether sea water desalinated by Dr. Schaefer's method was harmless and suitable for use as drinking water.

"5. Question. In that case, is it still necessary to carry out experiments on human beings?

Answer. It would be unnecessary to conduct experiments on human beings if the water resulting from the application of Dr. Schaefer's method was found to be chemically free of the salts in sea water and barium and silver.

"6. Question. After Schaefer had completed this analysis and had discovered that the agent had a strong bactericide effect, had he fulfilled his duty sufficiently to be able to suggest that the agent should be used on a large scale?

Answer. If the chemical analysis showed that the water had been freed of salts, barium and silver and that the chemical agent had a bacteriocidal effect entirely adequate, sufficient evidence would be available to suggest and recommend that the agent and procedure should be used on a large scale for rendering sea water potable and harmless. And, it is entirely rational, as in the case of our own experiments at the Naval Medical Research Institute, that his agent and method would accomplish those things claimed for it, namely would render sea water potable and harmless."

That was Exhibit 23.

Q Dr. Schaefer, we see from this that the method that you and the I.G. developed was ready for use?

A Yes, this was November 1943, and at that time I could tell the Medical Inspectorate that a method had been developed which was ready to be introduced. In December of the same year I demonstrated the procedure in Professor Hippke's presence and in the presence of a few other officers. All of these men drank water prepared with Wofatit, and large-scale manufacture and introduction of this preparation was

recommended.

Q What did you have to do with the so-called Berke method?

A Dr. Becker-Freyseng went into that point at great length. I received from the Medical Inspectorate in the first months of 1944 the order to check on experiments that an Oberstarst von Sirany had carried out in Vienna on soldiers, and to report on what I found. It was perfectly patent to me that Mr. Berke was a charlatan and Mr. von Sirany was another.

DR. EICKMANN: In this connection I offer documents 26 and 27 and give them exhibit numbers 29 and 30, pages 103 and 106.

MR. HARDY: May I inquire, Your Honor, whether or not Exhibit No. 29 purports to be an original file note of Dr. Konrad Schaefer?

DR. EICKMANN: Let me draw your attention to Exhibit 19, the affidavit of Mrs. Koenig. I have already read Exhibit 19, her statement that Mrs. Koenig identified these documents as the original documents. Perhaps Mr. Hardy can re-read this identification.

MR. HARDY: I have no objection, Your Honor. I might suggest that these be put to the defendant for authentication.

DR. EICKMANN: Yes.

Q Will the defendant please identify these documents, so that this matter will be perfectly clear? Dr. Schaefer, what can you say about these documents?

A Yes, these are the original documents as I drew them up; then there is a copy of them which I sent to the Medical Inspectorate at Sarlow.

Q And is it true that Mrs. Koenig wrote these documents, as she says in her affidavit?

A Yes.

Q Now, from these documents that you have before you in the original, will you kindly recopy yourself from Document 26, Roman Numeral IV?

A I quote: "About the Berke procedure:



"a) Berke sea-water differs from natural water only by its taste.

"b) Like the latter, it causes a salt diuresis, which according to the amount drunk, can quickly lead to a dangerous exsiccosis. It produces an objective thirst.

"c) In many cases it increases the subjective thirst, causes dryness of the mouth and throat mucous membrane and diarrhea. The same applies also in the case of small doses.

"d) Berke sea-water, like natural water, is quite unsuitable for quenching thirst at sea, either in large or small doses, and is even dangerous. In any case, it is better to go thirsty than to drink it."

Q Now, from Exhibit 40, Document 27 --

THE PRESIDENT: Counsel, Paragraph 2, under Roman IV, this Document Book says: "Berke sea-water, like natural water, is quite unsuitable for quenching thirst at sea." Is not natural water suitable for quenching thirst at sea; does that mean natural sea-water?

DR. FELCKMAN: That means natural sea-water naturally, Your Honor, yes.

In the German original it says just "natural."

Q Now, from Exhibit 40, Document 27, will you please quote, or will you please explain the significance of this Document regarding anamneses?

A "Then I came to Vienna, Mr. von Sirany went with me in his uniform as Oberstarat into the room in which the patients, that is, the experimental subjects were.

Q They were soldiers, were they not?

A Yes, they were. Mr. von Sirany stated summarily that "Berke water was a fine thing, wasn't it," and "you weren't thirsty, were you," and "everything was fine, wasn't it?" The soldiers said, "Yes, Colonel, everything went very well with us." However, I was in civilian clothing, and asked Mr. von Sirany to permit me to question the men individually. I told the soldiers to explain to me how it was possible. I told them, I was a scientist and had nothing to do with the military, and then I

found out about these anemones. Most of them said the more they  
trunk the thirstier they got. For instance, Elva said that, and Linter  
said it. The thirst was quenched only temporarily. Many said that  
they had diarrhea. In other words, what we find here is what one would  
expect to find with the Berke method.

Q. Dr. Schafer, I shall put Document No. 28 to you, this will be Exhibit No. 31.

A. These are directions for using Berkatit, signed personally by Mr. Berka. These are the instructions that he gave me at that time. From these instructions for use one can see one or two very important points. It says here under the heading "Clinical experiments", I quote:

"Clinical experiments have shown that in case of distress at sea it will be advisable to start at once with the drinking; thus the palate becomes gradually accustomed to the potion, and the strain on the kidneys does not occur in one shock but increases gradually."

The main emphasis lies here on the phrase "the strain on the kidneys" this proves with the Berka method the salt still has to be eliminated by the kidneys. At the conclusion of the instructions for use, it says:

"Berkatit has, at the same time, a high food value and can be taken as a food instead of hard candy. Berkatit contains vitamins."

I, myself, have eaten Berkatit, and it was in effect nothing but hard candy.

Q. Dr. Schafer, in the discussion on 19 and 20 May, 1944, what opinion did you express about Berkatit?

A. Mr. Berka and I had a rather vehement argument. I put his own instructions for use to him and also confronted him with Oberstratz von Sirony's experiments. I told him that his preparation was simply something that covered up the natural taste of sea water and consequently was much more dangerous than sea water itself, because the soldiers would have the illusion that they could drink unlimited quantities of it. However, Mr. Berka was not to be persuaded and came forward with medical explanations which he did not even understand himself.

Q. I should now like to put in Documents Nos. 29, 30, and 31. Document No. 29 will become Exhibit No. 32, Document No. 30 will be-

some Exhibit No. 33, and Document 31 will become Exhibit No. 34. These are affidavits from persons who took part in the conferences. These are representatives of the Navy who know a little bit about the way in which those discussions were carried on. From what they say it can be seen that the struggle between the doctors of the Luftwaffe and the technical office was very violent at this meeting and that Schnofer took part in it.

From Exhibit No. 32, I should like to read a part of the affidavit of Dr. Kurt Liesche. This is the 12th or 13th line:

"I remember that the May session 1944 consisted mainly of a lively discussion between technical and medical representatives of the Luftwaffe. The physicians of the Luftwaffe and also the physicians of the Navy-as far as they made themselves heard-raised serious objections against the Berkait process. In this connection physiological questions entered the discussion, on which, owing to my training, I could not give an expert opinion.

"The technical representatives of the Luftwaffe had made Berkait experiments on living humans in a hospital of the Luftwaffe already before the May session. No one suffered health damages at this occasion. The physicians of the Luftwaffe had considerable objections against the procedure of the experiments and discussed these in a specialized manner which I could not follow. I had the impression that all the other participants of the meeting were merely listeners and that some of them did not approve of the sharp controversy between the physicians and the technicians. The physiologists of the Luftwaffe attacked the technical experts in a very pointed manner and forbade any non-professional interference with their specialized sphere of work. I cannot recall the literal statements of any of the physicians."

Then from Exhibit No. 33, the affidavit by Richard Handstein I should like to read only a part. I quote: from the fourth line of the second paragraph:

"The debate was conducted among members of the Luftwaffe. I can still remember S tabingenieur Berka, who defended his own procedure.



In opposition to him, a young physician of the Luftwaffe upheld a different opinion. This may have been Schaefer. This young physician argued with physiological reasons, which, however, I do not remember in detail. I know nothing regarding the details of possibly planned series of experiments."

JUDGE SEBRING: Just a moment, counsel. I notice that several of the affiants who have submitted affidavits here that their names appear in Prosecution Document No. 177, Prosecution Exhibit No. 133, Document Book No. 5, as being recorded "Present" at the May meeting. I do not notice the name of this affiant, Richard Handstein; can you explain that, please?

DR. PELCKMANN: I myself failed to notice that, Your Honor. It is possible that this record is faulty and that Handstein was present and was not listed. He, himself, speaks in his affidavit of a meeting in the spring of 1944 in the Air Ministry. I personally assume that that is the same meeting, and it is possible that his name is not mentioned.

JUDGE SEBRING: Could it be that the affiant Richard Handstein is one and the same as Haunstein, who appears as the ninth name in Prosecution Exhibit No. 133?

DR. PELCKMANN: Yes, it is perfectly possible that this name Haunstein is really Handstein. If this copy of Document No. 177 is correct, then the mistake was made in the original minutes of this meeting. I thank Your Honor for calling this to my attention. I shall look again at the original in order to ascertain whether the name is set down falsely in my document.

According to his own signature, the man's name is Handstein that is in the affidavit, which I am putting in and in the original of Document 177 of the Prosecution the name is Haunstein.

BY DR. PELCKMANN:

Q. Dr. Schaefer, were you able to express your point of view regarding the Berka method, although Becker-Freysang had already expressed his?

A. Yes.

Q. How can you substantiate in any other way your statement here that you opposed the Berkatit method.

A. I was so convinced of the nonsensicalness of the Berka method that I said that it was entirely ineffective and that this was so obvious that there was no point in experimenting with it.

Q. Then, you expressed the opinion that such experiments would be completely unnecessary.

A. Yes, I did and for that reason I was not among the members of the committee which was to prepare for these experiments, as can be seen from this record of the meeting of the 19th and 20th.

Q. You mean to say that you did not become a member of that committee?

A. Yes, that is right. This was a group of people who were ready for some sort of compromise.

Q. Did you not have some difficulties on the 20th of expressing your opposition again?

A. Yes, of course I did, because the Technical Office, which had come to recognize me as the most radical opponent of the Berka method, was in charge of the meeting. Well, that is to say Christenson was presiding and he simply would not give me the floor, and since I was an Unterarzt, a non-commissioned officer, I could not take it on my own initiative.

Q. And you were even threatened once; were you not?

A. Yes, at the conclusion of the discussion, after the Technical Office saw that I was trying to portray the experiments as senseless, Schickler told me that if I went on in this same direction I would have to explain my actions to Milch and to answer the charge of sabotage.

DR. PELCKMANN: Becker-Freyseng has already stated on the stand that Schaefer told him this later.

Q. Was there a discussion at this meeting of the 20th of the fact that human experiments were to be carried out with the Wofatit method?

A. No. Even Herr Berka himself saw that the Wofatit method was a good one.

DR. PELCKMANN: I can again, Your Honors, draw your attention to Document 177, Exhibit 133, and I draw your attention to the fact that there is no mention there of any experiments with Wofatit.

Q. Did you have any interest in seeing to it that experiments should be carried out with Wofatit?

A. No, none whatsoever, because I had nothing to do with Wofatit.

Q. Perhaps this would have been out of some personal interest to you simply to prove how good Wofatit was and how poor Berkatit was?

A. Well, that would have been simply a ridiculous ambition on my part.

Q. At any rate, although the chairman, Christensen, limited you more and more, nevertheless, on the 20th you did state your opinion that the experiments with Berkatit were completely unnecessary and useless?

A. Yes, that is so, and the suggestion was then made that Dr. Eppinger should then be put in as director of future experiments, and I then said to myself that, if Eppinger came to Berlin, he would kick up quite a rumpus because he had been given any trouble or been bothered at all in such a useless affair.

Q. Now after the 20 May meeting did you still do everything you could to prevent experiments being carried out, particularly experiments with prisoners, whatever sort they might be?

A. Yes. In a telephone conversation with Becker-Freyseng I expressed <sup>my</sup> misgivings.

DR. PELCKMANN: In this connection I should like to return to Exhibit 19, Document 39, an affidavit of Mrs. Koenig in the supplementary document book. Since I have already read the first part of this affi-



davit, I shall read the rest. Page 125a:

"I remember well how Dr. Schaefer at the beginning of 1944 returned in an enraged state from Vienna where he had informed himself on the development of the experiments with the Berka preparation. He was furious at the stupidity of some men who had even proposed such a thing and he told me that this preparation merely altered the taste and that he would have nothing to do with this charlatanry.

"Based on the notes of the experiment by Dr. von Sirany Dr. Schaefer dictated to me his views on it which he consequently took to the medical inspectorate at Salow to report on it to his superiors. Some time later Dr. Schaefer returned home in an excited state and said something like this: 'Today there was a violent quarrel. Those idiots cannot be convinced by anything, and the naval people too have no idea of physiology. For some unknown reason new experiments are to be made. I hope I shall have nothing to do with these. It has even been proposed to make the experiments on prisoners.'

"Dr. Schaefer then immediately called up Dr. Becker-Freyseng. I was in the same room and I remember this conversation very well because I repeatedly had to ask Dr. Schaefer to keep his temper and not to shout so much. Among other things he said that he simply could not understand why new experiments should be made, and if they have to be made, they should at least not be performed on prisoners.

"After ending this conversation Dr. Schaefer told me that some other experts were to be called in and that he hoped that they would decide to quash the whole matter. As a minor official in the Luftwaffe he was sorry he could do no more than he had already done to prevent this nonsense. Dr. Schaefer stated in various conversations that he was opposed to any experiments on prisoners on principle as in such cases one could never be sure whether the experiments were really made on volunteers and not by exercising pressure in view of the more or less disagreeable condition under which they were living. Besides, his political principles made him averse to everything in any way connected with



concentration camps.

"Upon my question whether these experiments with the Berka preparation caused severe pains, Dr. Schaefer told me that they were not agreeable but in no way dangerous and would not cause any lasting damages, provided they were made under sensible medical supervision. He added, however, that in spite of everything he was opposed to such experiments because he rejected everything connected with the concentration camps."

I should like to read the following lines at a later time. As can be seen from this affidavit, another effort was made to examine the necessity of these experiments, namely, by receiving testimony from medical specialists.

Now I put in Documents 32 and 33 in order to show what the medical specialists did in this matter. First I should like to read Document No. 33 which will become Exhibit 35; it is on page 116. Document No. 32 will become Exhibit 36; it is on page 113. Professor Dr. Hans Netter from Kiel says the following:

"Towards the end of May 1944, at the request of the Medical Service of the Luftwaffe and without having been informed of the details of the questions which would be dealt with, I was asked to take part in a conference with making sea water potable.

"As far as I can remember, the following persons were present, apart from myself: Professor Heubner, Professor Eppinger, Professor Schwiegk, Dr. Becker-Freyseng, Dr. Schaefer, another representative of the Medical Service of the Luftwaffe, the engineer Berka and one or two other representatives of the technical office.

"At the beginning of the conference the possibility was discussed of supplying with water persons in distress at sea, and the discussion turned only gradually to the two methods which obviously had already been considered before by the Luftwaffe. We, the as yet insufficiently orientated participants, learned about them by the slogans Berkatit and Wofatit.

"At first the Berkatit method invented by the engineer Berka was

generally declined by the Luftwaffe physicians including Dr. Becker-Freyseng and Dr. Schaefer. I was under the impression that only Professor Eppinger's great authority made it a topic of discussion. Without being able to give factual proof of this, there seemed to be a mutual understanding between Berka and Eppinger. Obviously Eppinger had full confidence in the experiments already carried out by Berka and seemed to be convinced of the value of his method. With regard to this situation, Dr. Becker-Freyseng remarked that the Luftwaffe could have the methods for the rescue of airmen in distress at sea evaluated by preliminary tests on human beings. Nothing was said about the fact that these experiments were to be carried out on prisoners. I thought of volunteers, a very obvious idea, as during the period of my work at an examination point for airmen, which lasted for some years, we dealt nearly exclusively with members of the Luftwaffe who had volunteered.

"In a frequently contradictory and long lasting discussion the participants agreed on a program of experiments, the details of which I can no longer recall. It is out of the question that this conference was based on any previously fixed program. I can no longer recall whether a series of experiments for the evaluation of Vofatit was really agreed on at that time."

And Document 32, Exhibit 36, page 113, reads as follows: —

Q. This, Dr. Schaefer, is the conference of the 25th of May?

A. Yes.

DR. FELCKMAN: "At a conference in the spring of 1944, which was held at the Military Medical Academy, the following took place, as far as I can recall:

"Among the participants were the following men known to me, as far as I remember:

Stabsarzt Dr. Becker-Freyseng  
Stabsarzt Dr. Schwegk  
Unterarzt Dr. Schaefer  
Engineer Berka  
Prof. Dr. Eppinger, Vienna  
Prof. Dr. Metter, Kiel  
and myself; also two or three officers whose names

I cannot recall. Marineoberstabsarzt Professor Dr. Orzechowski from Kiel was invited but did not attend.

"A discussion took place on the use of a preparation for producing potable water from salt water, proposed by engineer Berka. Few details were given about the nature of this process. It was obvious to me, however, that some very high authorities of the military administration very seriously considered the introduction of this preparation while the medical experts who were acquainted with this preparation, particularly Messrs. Becker-Freyseng, Schaefer, and Schwiegk, had serious doubts about its efficacy for it was claimed that this preparation would make salt water potable without eliminating its salt contents. I myself had the same doubts as to the efficacy of this process and Prof. Dr. Netter, who sat next to me, was of the same opinion. The meeting was interrupted by an air raid alarm and was continued standing in a dark basement, while the bombs could be heard exploding and it was impossible to take notes.

"As far as I remember, the outcome of the discussion was that despite all doubts the process as suggested by Mr. Berka was not to be rejected without an investigation for even the slightest success would seem sufficiently important from a military point of view and any such slight benefit should not be rejected. The eminent clinical physician Eppinger in particular upheld the view that the matter was at least worth investigating.

"In the ensuing discussion the general application of the tests was discussed and three groups of experimental persons were suggested; one, those suffering from ordinary thirst; two, those who were given ordinary salt water, and three, those who were to drink salt water which had been treated according to Berka's formula. The discussion then turned to the precautions to be taken to prevent water being obtained during the experiments. Earlier clinical experiments in connection with the water and salt content of the body had shown how necessary those precautions are. There was, of course, complete agreement on the

necessity that the experimental persons should be under constant medical supervision to avoid any possible risk to the health and Herr Eppinger therefore suggested that his assistant, Dr. Beiglboeck, who had much experience in the field of metabolism, should be placed in charge of these experiments.

"Some months after this first conference there was a meeting of numerous physicians of the Wehrmacht, presided over by Generalstabsarzt Dr. Schroeder, to which I also was invited. There Dr. Beiglboeck, among others, reported on the outcome of the experiments. This report did not show that the experimental persons had been treated any differently from previous scientific experiments in the same field. It was understood, of course, that in order to carefully supervise the supply of water close supervision had been maintained. The tests showed that the process suggested by Dr. Berka in no way improved the drinking qualities of sea water by people suffering from thirst. The discussion revealed that war experiences had shown that humans can suffer thirst much longer than the earlier doctrine of physiology had taught."

That is Professor Wolfgang Heubner's affidavit, who is at present teaching at the University of Berlin.



BY MR. PELCKMAN:

Q Dr. Schaefer, were you present throughout the entire course of the conference on the 25th of May?

A No. Some time after the discussion began there was an air raid. Everyone ran into the cellar including those participating in this discussion. The cellar was divided into several smaller rooms and the participants in the discussion broke up into little groups and mixed with the other persons in the house. There were a great many people there, people from everywhere in the Medical Academy.

Q On the 25th of May at this discussion was there discussion of human experiments with Wefatit?

A No.

Q Let me say that Professor Gatter's affidavit states the same, that is, Exhibit 35, and Becker-Freyseng corroborated that as a witness on the stand Dr. Schaefer, Becker-Freyseng and various affidavits have shown us that you were against the Berka method and that you were against experiments on prisoners. You also stated that during this discussion. Now, you stated that on the occasion of the previous conference. Now, why didn't you do so again on the 25th concerning experiments on Luftwaffe personnel or concentration camp inmates?

A On the 25th of May I again said that the Berka method was not useable after several university professors, including persons with a European reputation, such as Professor Eppinger and Huebner, had stated that the Berka method could not be rejected without a further experiment. I, of course, could not present any medical counter-arguments or refutations since I had no military rank nor did I enjoy reputation in science. I was, after all, then simply an employee in private industry.

Q However, you had other reasons which you explained to Mrs. Koenig and which are corroborated in her affidavit, misgivings concerning prisoners?

A There was no mention of prisoners in this discussion and

I could not return to something that had been said in a previous discussion and take that occasion to express my private opinions of that experiment on prisoners. Moreover, such a thing would have been a political attack on National Socialism and its system of concentration camps, which would not be exactly the thing to do in a meeting attended by officers. I don't believe even the most courageous resistance man would have done such a thing.

Q Perhaps you would like to describe to the Tribunal how you had previously been threatened.

A In a discussion that took place with Dr. Christensen before the 19th I had serious differences of opinion and he forbade my interfering in his business and he told me that Obersterst von Sirany certainly knew alot more about these things than some Untererst. The man who had a colonel's insignia on his shoulder certainly was scientifically in the right also, and the higher his rank the more right he was.

Then there was my clash with Major Jaworak; not only my clash with him, but also Becker-Freyseng's; and then in addition there was the threat that Schickler made to me at or after the meeting of the 20th. All that would have been necessary then would have been a little note of some sort in the minutes of that meeting and Berka or Christensen would have been able to get their opponent, namely me, out of the way.

Q Then, in other words, you considered it impossible, on the 25th of May, to express you ideological objections to the Berka method?

A Yes, that was quite out of the question.

DR. BLICKMANN: I shall read now the rest of Frau Koenig's affidavit. This is again Exhibit 19 in the supplementary volume in which she discusses Schaefer's disappointment in the failure of the last possibility of preventing these experiments.

In the third paragraph from the end it reads — this is on page 12v, the first paragraph:

"A short while later Dr. Schaefer returned home soon after a severe air-raid, with the following words which I clearly remember: 'These asses have also failed. I cannot understand what qualifications secured such persons their professorships. I am tired of it and I won't do anymore. The experiments will now probably be made at Brunswick.'"

"I also very well remember that Dr. Schaefer returned from a discussion in an enraged state saying that he had just come from a meeting with officers of the Luftwaffe. He and Dr. Becker-Freyseng had been called saboteurs when declaring the Berka preparation as completely useless. They also had to submit to other strong attacks and the meeting had nearly been broken up."

The threats against Schaefer charging him with sabotage can also be seen from this document and also from Herr Pahl's affidavit, which is Document No. 40 to which I have given Exhibit No. 37. This again is in a supplementary volume and, as I said, this again mentions threats against Schaefer on the charge of sabotage. In the middle of this document — or, rather, I shall read the third paragraph:

"The so-called transcript of 23 May 1944 (Document No. 177 Exhibit 133) incorrectly reports the discussion on 19 May. One of the most obvious mistakes in this transcript is the mention of a series of experiments which were supposedly to have been agreed upon at that time. Actually, no series of experiments were settled on this day, therefore, also not those listed under Figure 1A-d (6 day period) and an experimental series (12 day period). Not one word was mentioned to the effect that the experimental subjects would be supplied by the Reichsfuehrer-SS or that the experiments were to take place at concentration camps. As the Wefatit method was considered acceptable by all present at the conference, the question of experiments on humans did not arise and was not mentioned. The experimental series with Wefatit was later neither suggested nor ordered by Schaefer."



"During the meeting either Major Jaworek or the Chief of the testing station Travenuede accused Becker-Freyseng and Schaefer of being financially interested in the Wofatit method.

"Becker-Freyseng, Schaefer and I protested against this accusation and got up to leave the meeting. Christensen interceded and thereupon we remained."

I now put in Document 34. This will be Exhibit 38, page 118. This is an affidavit by Professor Hubertus Strughold. This proves that the ESHA, in other words, the Gestapo, took measures against scientists saying that they were saboteurs if they embraced medical opinions that differed from the officially accepted opinion. The affidavit reads:

"In fall 1944, my two collaborators Dr. Heinrich Rose, Luftwaffe Stabsarzt, and Dr. Ingeborg Schmidt investigated the effects of vitamin A, on night vision. They found out that when combined with a sufficient supply of fat vitamin A - when given in normal doses - it improves night vision. From another source, it was discovered that very big doses of vitamin A - when given in certain solution agents - improve the night vision in a way never previously experienced. My collaborators did not confirm this. Thereupon, some time later, the Research Management of the Luftwaffe or the Medical Inspection received a letter from - I believe the SS Sicherungshauptamt or whatever its name was, and in this letter, my collaborators and my Institute were reproached of sabotage. As far as I recall, a correspondence took place between the two agencies named, the subject of which I do not remember in detail. Later I heard no more about it. Anyway, the fact remains that both my scientific collaborators were attacked by the above mentioned organization merely because they could not confirm the results of another research worker. This is a matter unheard of in the field of science."



DR. PELCKMANN: Perhaps at this time, Your Honor, we could break off.

THE PRESIDENT: If you have only three more you may proceed and we will conclude this evening.

DR. PELCKMANN: I have only three more that is correct, your Honor. However, I see that the connecting test in what I intend to present here is so long, it would be better if I present it tomorrow.

THE PRESIDENT: The Tribunal will be in recess until 9:30 tomorrow morning.

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NATIONAL ARCHIVES MICROFILM PUBLICATIONS

# **OFFICIAL RECORD**

## **UNITED STATES MILITARY TRIBUNALS NÜRNBERG**

**CASE No. 1    TRIBUNAL I  
U.S. vs KARL BRANDT et al  
VOLUME    23**

**TRANSCRIPTS**  
**(English)**

**3-9 June 1947    pp. 8400-8789**

Official Transcript of the American Military Tribunal  
in the matter of the United States of America, against  
Karl Brandt, et al, defendants, sitting at Nurnberg,  
Germany, on 3 June 1947, 0930, Justice Seals presiding.

THE MARSHALL: Military Tribunal I is now in session.  
God save the United States of America and this honorable  
Tribunal. There will be order in the court.

THE PRESIDENT: Mr. Marshall, have you ascertained  
that the defendants are all present in court?

THE MARSHALL: May it please your Honor, all the  
defendants are present in the court.

THE PRESIDENT: The secretary-General will note for  
the record the presence of all the defendants in court.  
Do I understand that the witness Franz Vollhardt will first  
be called on behalf of the the defendant Becker-Freysong?

DR. MARX: With the permission of the Tribunal, Mr.  
President, I should like to call Professor Vollhardt whom  
the Tribunal has permitted to appear as an expert witness  
on behalf of defendant Schroeder and Dr. Becker-Freysong,  
and who has also been allowed to testify on behalf of  
defendant Dr. Beiglbach.

THE PRESIDENT: The marshal will show to the witness  
stand Franz Vollhardt.

FRANZ VOLKHARDT, a witness, took the stand and test-  
ified as follows:

BY JUDGE SEBRING:

Q. Hold up your right hand and be sworn, please,  
repeating after me the oath: I swear by God, the Almighty  
and Omnipotent, that I will speak the pure truth and will  
withhold and hide nothing.

(The witness repeated the oath)

JUDGE SEBRING: You may sit down.

DIRECT EXAMINATION

BY DR. MARX:



Q. Professor, please, would you state your full name.

A. Franz Vollhardt.

Q. Where and when were you born?

A. Munich, 2 May 1872.

Q. Please, would you briefly tell the Tribunal what your scientific activities have been and regarding which special field and since when you have taken a particularly great interest?

A. I am Professor of Internal Medicine at Frankfort and predominantly, I have dealt with the question of circulation, metabolism blood pressure or kidney diseases.

Q. Which are the German Universities where you have been a lecturer?

A. Halle and Frankfort.

Q. Have you been an author of scientific work regarding this special field of activity?

A. Yes.

Q. Have they been circulated and translated in foreign countries and in foreign languages?

A. Yes, they have been translated in Russian, behind my back.

Q. Considering the facts you have just stated, would it be right to say that you have had honors allotted to you in this country and abroad, so would you please tell the Tribunal what types of decoration you have received abroad.

A. I really have to?

Q. Which foreign academies and Foreign societies have you been a member of? Professor, I really want you to answer my questions because I am sure my questions pursue certain purposes.

A. I am Honorary Doctor at the Sorbonne, Paris, at Gottingen and Freiburg; and, as far as societies are

Court 1  
June 3-M-1-3-HD-Prineau-Frank.

concerned, there are a lot of them, Medical Society at  
Edinburg, at Genf, at Luxemburg. I am an Honorary Member  
of the University at Santiago, and so on and so forth.

Q. Thank you very much. Then I would be interested  
to hear from you whether you had connections with the  
NSDAP and what sort of connections they were and whether  
the Party persecuted you in any way. Perhaps, you might  
answer the last question first.

A. When I was lecturing in Spanish in South America  
and when I was giving a lecture in Corjoba Argentina,  
before a medical Congress, I received a telegram to the  
effect that I had been relieved from my office and the  
reason given was lack of anti-semitic attitude.

Q. When was that?

A. 1938.

Q. And since when have you once more been reinstated  
and are you active again?

A. Since 1945.

Q As a full professor?

A Yes, as full professor for Internal Medicine at the University of Frankfurt.

Q Now, Professor, a few questions regarding your own research work. You have dealt particularly with hunger and thirst treatment in the case of kidney diseases. Is that correct?

A Yes.

Q So that you have personal medical and scientific experience regarding the observation of human beings when they undergo hunger and thirst treatment?

A Yes.

Q Mr. President, before continuing with the examination of this expert witness I should like to permit myself to make a suggestion. There are two types of possibilities for the examination of Professor Vollhardt regarding questions which interest us here. One possibility, the one which I myself consider the correct one, is that Professor Vollhardt should give us a continuous expert opinion regarding the entire complex of questions which are of interest here, and that at the end I would then permit myself to put a few concluding questions to the expert here as, of course, any defense counsel and prosecutor is entitled to do, too. The other possibility would be that I put a number of individual questions to the expert which would deal with the subject chronologically and technically from a medical point of view. But, that would distort context and would not give as clear a picture of the situation as would the first possibility. I should like therefore, Mr. President, for you to make a decision whether the expert is to give an opinion in the form of one lecture first.

THE PRESIDENT: If counsel would propound to the witness a hypothetical question covering the basic facts which here are at issue, and if the witness would answer that hypothetical question without further question from counsel and make his response brief and to the point, and without enlarging too much upon the fact that salt water is not fit

to drink and is injurious, which the Tribunal very well knows, we might proceed that way as suggested by counsel. The hypothetical question should cover the facts here at issue, that experiments were tried upon a group of people, a control group, a non-control group and others, then the witness may answer that question without further interruption by counsel if his answer is, as I said, brief and not enlarging too much on generalities.

DR. MARX: Very well, Mr. President.

Q Now, Professor, do you have sufficient insight into the planning and carrying out of the so called sea water experiments in order to give an expert opinion on that subject?

A Yes.

Q What documentary evidence did you have?

A I had the original records prepared by Baiglboeck which I had seen.

Q I shall first of all deal with the character and type of the experiments. Are there differences between the character of these sea water experiments such as experiments with artificial infection with malaria and cholera and; if there are differences, what are they?

A You can't compare the two at all, because in the case of the sea water experiments you have things so perfectly under control and can interrupt so instantaneously and because the experiments had been planned at short notice, it could be excluded with absolute certainty that no damage could be done. In the case of artificial infection you can not do that.

Q You are saying that in the case of sea water experiments, providing they are interrupted in time, danger to health and body can be avoided with certainty or bordering on certainty?

A Not the latter. I said with absolute certainty.

Q I shall now come to the planning of these experiments. Did Professor Eppinger's participation and the participation of Professor Haubner during the meeting decisive for the planning of 25 May 1944,



which I assume you know about, did they give a guarantee for purely scientifically and medically proper treatment of the problem?

A No doubt they did. Professor Heubner is a leading scientist and an extremely critical person, and Professor Eppinger was one of the leading clinicians in the world and a most outstanding expert, and I assume both of these gentlemen had reasons for allowing these experiments to be carried out, presumably in order to strengthen the back of the medical men, vis-a-vis the technicians. And, secondly, it seems to have been in Eppinger's mind that during such extreme experimentation conditions might be possible that the kidney would suffer more than up to that time and it might have been that Berkatit which contains vitamins might support the work of the kidney.

Q Professor, what is your opinion about the individual experimental groups?

A I think that scientifically speaking the planning was excellent and I have no objection to the entire planning. It was good to add a hunger-and-thirst-group because, we know by experience thirst can be suffered better than hunger, and if people are suffering from hunger and thirst too, they do not suffer from hunger, but do suffer from thirst and that resembles what people in the sea would be subject to because he is only suffering from thirst. It was excellent that Wofatit was to be introduced into the experiments too, although it was expected from the beginning that this wonderful discovery would prove itself. It did turn out that groups treated with sea water according to Schoefer just reacted as a group that were subjected to a reasonable hunger treatment and did not suffer from any great discomfort. In the hunger cure of 12, or, we should say 8 days, because the people still ate during the first 4 days, that is a minor affair, and we carry that out innumerable times for medical reasons. There exists a sanitarium where people are made to hunger for four weeks, and as long as they get water in the shape of fruit juices, they still carry on well and often with enthusiasm. Group 2 was Schoefer's group, groups 3 and 4 was the

group that received 500 cubic cms. of sea water once without and once with Vefetit. Group 3 was the ones who had drunk 1000 cms. of sea water. That one could only use volunteers for this group is an obvious fact, since the cooperation of the experimental subject is indispensable. Without their good will such an experimental arrangement is impossible. That sufficient volunteers could be found for a case was a matter of course, since a period of ten days of excellent food before and after the experiment was before them and since one could assure them with the best of confidence they would not or could not bring any danger.

Q We will come to that, Professor. You have just started to speak about food, nourishment. What is your opinion about the food before, during, and after the actual experiments?

A Well, before the experiments it was splendid. During the experiments it was meager corresponding to ship wrecked people and afterwards quite excellent. In my opinion during such brief experiments nourishment doesn't play any part.

MR. HARDY: May it please the Tribunal, might I inquire whether the witness is now testifying to facts as he has ascertained them from studying graphs and charts made by Professor Beiglböck or is he testifying from hearsay that food was given to these inmates or what is the basis of his knowledge that he is eliciting here?

A I was giving my testimony based on the records which I have studied.

MR. HARDY: Thank you.

A But I don't attach any importance to the meager food served during the experiments because that is an insignificant point which as I have said we have allotted to others many times.

THE PRESIDENT: Witness, when you referred to this examination of the records, state briefly just what records you examined.

A The original records.

THE PRESIDENT: Comprising the charts that were taken from

day to day during the experiments?

A Yes.

THE PRESIDENT: I would ask counsel for the defense if those charts are available here in the Tribunal?

DR. MARK: Mr. President, those charts are not in my hands. They are held by the defense counsel for the defendant Beiglboeck.

THE PRESIDENT: Counsel may proceed.

MR. HARDY: Your Honor, I have the charts in my hands at this time. I will pass them up to the Tribunal for their perusal. I haven't had an opportunity yet to peruse them, therefore, I don't know what they mean.

THE PRESIDENT: It is not necessary to submit the charts to the Tribunal at this time. I would ask counsel for defense if these charts purport to be the complete record of these experiments from the beginning to the end?

STEINBAUER (For the Defendant Beiglboeck): Mr. President, I am in the most fortunate position of having been able to study Beiglboeck's records in his previous office and to find his additional material which he used for the composition of these records. I found some of these in Vienna and brought them along at Christmas and immediately showed them to Dr. Alexander in the original. Dr. Ivy was here from America at that moment and dealt with these records, looked at them carefully and then in the presence of the defendant returned them to me.

THE PRESIDENT: Counsel, my question was whether or not these charts purport to be a complete record from the beginning of the experiment to the end of the experiment. That was the only point contained in my question.

DR. STEINBAUER: Yes, at the time I was looking for them, the tables of weights were missing. I started looking for them and I have found the original patients' histories, made up for each individual patient from 1 to 44, so we can prove, in great detail, how these experiments developed. Now, those tables are available. The Professor composed them in a weight table which is contained in Document Book 3 because it had been impossible to copy these things.

THE PRESIDENT: I understand that, Counsel. But these charts purport to be complete to the end of the experiment? That's the point in which the Tribunal is interested.

DR. STEINBAUER: Yes, they are.

MR. HARDY: May I ask a question of counsel, Your Honor? The prosecution desires to know whether or not those charts and records purport to be those charts and records made during the course of the experiments, or whether Professor Beiglboeck completed them after the experiments?

THE PRESIDENT: Counsel will answer the question propounded by the prosecution.

DR. STEINBAUER: Yes. That's quite out of the question since Professor Beiglboeck didn't even know where the documents were. He is a typical professor who leaves things lying everywhere. I managed to gather them together - bits of paper, notebooks, all sorts of things. I got it together with much pain. I brought it to Nurnberg and I didn't part with it until the witness saw them, and by comparing the handwriting, this can be ascertained. It's quite out of the question that anything could possibly have been altered in these notes.

MR. HARDY: What disturbs me, Your Honor, is that on one of the charts the name of the subject is erased. The subject's name appeared



here and now it has been erased from the top of the chart, and throughout the charts I have been unable to read the German language and I only received them about thirty minutes ago.

THE PRESIDENT: Such a matter as that can properly be taken up in cross-examination.

With the understanding that these charts contain a complete record from the beginning of the experiment to the end of the experiment, counsel may proceed with the examination of the witness.

BY DR. MARX:

Q Professor, how do you judge the individual examinations carried out by Professor Beiglboeck? Were they adequate for the solution of the practical question whether Eorkatit was sufficiently useful and a preferable thirst treatment, and was it sufficient to judge the daily condition of the experimental subjects so that the right time to interrupt the experiments could be ascertained?

Did you get my question?

A Yes, I've got it.

I thought that the arrangements of these experiments was splendid from the scientific point of view, and, apparently with tremendous industry and great responsibility Beiglboeck devoted himself to the carrying out of these experiments which he had been ordered to do.

Q Would it be right to say that a personality such as Beiglboeck, as a professor of Interior Medicine and chief medical officer at a clinic for many years, on the basis of daily examinations and through his personal consideration and examination of the experimental subject, would be in a position to recognize any threats to the health of the person before such threats could actually become serious.

A That was a matter of course. Beiglboeck is an excellent internal medical man and the great care with which he carried out these experiments shows that he was fully conscious of his responsibility. Only, it's hard to imagine that, during such brief experiments, serious damage could have occurred at all.

MR. McHANEY: I object to the latter part of the answer and ask that it be stricken from the record. This man is an expert and, as I understand it, he knows nothing whatsoever personally about the manner in which these experiments were conducted. I therefore take it he is not in a position to state how Dr. Beiglboeck conducted the experiments.

THE PRESIDENT: The Tribunal understands the knowledge of the witness and the objection will be overruled. The record may stand.

MR. McHANEY: While I am on my feet I would like to observe that of course the testimony of this witness is of suppositive probative value at this time. The records upon which he is basing his testimony have not been admitted in evidence. They have not been, in any way, identified.

THE PRESIDENT: That is understood. That is the situation before the Tribunal.

DR. MARX: Mr. President, I do want to say a few things about that. Professor Vollhardt, after all, is an internationally recognized scientist who, particularly with regard to the field in which we are interested here, namely that of thirst and water supplies, is the international capacity, as one puts it, so that he is in a position, on the basis of these clinical records of Professor Beiglboeck, to form an opinion regarding the way these experiments were carried out. I can't imagine that such a man would not be in a position, on the strength of such material, to form an opinion.

THE PRESIDENT: Counsel, it is not a question of the ability of the witness to form his opinion, but the records upon which he is basing his opinion are not in evidence before the Tribunal. They have not been subject to examination and cross-examination, and the witness' testimony is based upon the supposition that those records are correct, and they are not even before the Tribunal at this time. That was all the statement of counsel was intended to convey. If the records had already been admitted in evidence, and been examined, and people examined

and cross-examined on them, the situation would be different, but the testimony of the witness is based upon the hypothesis that the records are correct, and they are not before the Tribunal.

Counsel may proceed.

BY DR. SARKIS:

Q Professor, a little earlier you had already briefly dealt with the question of starving - of hunger or of thirst for the purpose of treatment, and I now want to ask you whether the administration of hunger and thirst cures of several days is a medically recognized fact, and also how long would you consider that hunger and thirst with complete refusal of food and liquid could be administered without putting someone's health in jeopardy?

A It depends who it is. Initially, I recommended hunger and thirst treatment in the case of acute inflammation of the kidneys, but these people have a great deal of water in their system and the water is absorbed during such a cure. Astonishing as it may seem, a cure is effected very rapidly. In such cases, three, five, seven and even more days of hunger are employed. In other cases, where no water surplus is in existence, we would only apply six days of hunger treatment. During the time when I had to be interested in these particular experiments, there were four women in my clinic, all who were there because of high blood pressure. They were aged 50, 51, 53 and 63 years. One had a blood pressure of 210/100, and, six days later, it had been reduced to 170/100. The third had a blood pressure of 280/160 and, six days later, it dropped to 180/100. The loss of weight amounted to three or four kilograms and the patients naturally, during those days, suffered from thirst and felt weak at the end of the sixth day, but they were so happy about the improved condition that they considered the unpleasantness of the recent days as being worthy of forgetting.

Q Is it correct that when water is withdrawn, nourishment should also be withdrawn?

A It's easier to suffer thirst when you are also hungry be-

cause the supply of nourishment makes claims upon the kidneys and, if you exclude salt in the nourishment, the water loses further humidity. Thus, appetite disappears when you are thirsty. Therefore, it is definitely better to be hungry and thirsty simultaneously.

Q Professor, is it right to observe the individual doses in order to prevent diarrhea, and, if individual quantities of less than 300 cc are admitted, can you prevent diarrhea?

A In the case of sea and bitter water you only suffer from diarrhea if you drink a large quantity at once. If you distribute it over a day you suffer from constipation.

Q Yes, but you didn't quite answer my question. I inquired about the individual doses.

A Yes, well, I'm trying to say that if you spread it out over a day, giving smaller individual doses instead of all at once, then there isn't any danger of diarrhea.

Q Can you describe sea water as poisonous at all?

A Absolutely no. There is a trend towards the treatment with sea water which is increasing, and people are drinking half a liter of sea water, every day, for weeks. There can't be any question of poisonous quality. In fact, people say they are feeling splendidly. The only difference is that in the case of such cures fresh water is administered too in the manner of tea, coffee and soup so that the dehydrifying effect of the sea water is done away with.

Q Professor, I wonder if you would speak a little more slowly and make a pause after individual answers in order to enable the interpreters to follow.

Q Has there been an experiment during which a dose of 500 to 1,000 cc of sea water daily was taken and it is to be described as dangerous providing the experiment is discontinued as soon as there is a threat of a danger to health?

A There can't be any question of there being any danger to health during the first few days. The only question is, how long can



the body stand up to this continuation of the deprivation of humidity? Sea water has a three per cent salt water content. Generally speaking, at least so far, we have assumed this to be so, that the kidneys cannot deal with such a salt concentration so that salt will remain in the system which is anxious to collect water from the tissues. In the beginning, this is of no importance; but after six or seven or eight days, this becomes unpleasant and it is to be expected that after the twelfth day there is some danger, but there have been cases of sea rescue when even seventeen or more days afterwards recovery was achieved, but one would generally say that I would never continue such an experiment - dare to continue such an experiment beyond the twelfth day, and in this case with which we are concerned, all experiments were discontinued after the sixth day, so that danger to health during that period was out of the question.

Q Could the aim of these experiments have been achieved with a semi-permeable membrane?

A I don't understand how one should imagine this. What we are concerned with is the question of how long the human body can survive without water and under the excess quantity of salt. Now, that is subject to the water contents of the body and it depends upon whether, first of all, water is only used by the intermediary tissues or whether the cell liquid too is being used up. In the latter case, there is a danger which becomes apparent through excess potassium quantities and this was also continuously observed and checked during such experiments and there were no excess Potassium quantities such as can be expected after six days.

Q. Nor would it be right to say that these experiments were planned scientifically and medically, is that correct?

A. Absolutely so.

Q. Could they have been planned differently?

A. I couldn't imagine how.

Q. Were these experiments in the interest of an active warfare, or in the interest of the care of ship-wrecked sailors or soldiers?

A. The latter.

Q. In other words for aviators and sailors who were ship-wrecked or would be ship-wrecked?

A. Towards the end of the war there was an increase in the cases of pilots who had been shot down as well as the cases of shipwrecked personnel, and it was therefore the duty of the hygiene department concerned to consider the question of how one could deal best with such cases of ship-wrecked personnel, that was the reason how this conference came about. Previously Schnofer, as we heard yesterday, had recommended not to drink anything. When together with I.G. he succeeded in eliminating salt and bitter salt from sea water through Velfatit the problem was really solved scientifically. There were, however, considerable technical difficulties and it isn't exactly simple to equip each flier with so much Velfatit in addition to everything else he has to carry in order to protect him against the danger of ship-wreck. That is no doubt why Eppinger and Auebner were in favor of the experiment, and it was unfortunate that Mr. Berka appeared with Berkatit at the same time, and impressed the technicians, because his method was more simple and cheaper.

Q. Professor, was there any reason to expect later symptoms of damage which might appear later than 10 days,

after the end of the experiment?

A. It was entirely out of the question, even after the seventh day. Later stage is out of the question, because the duration of the experiments is too short.

Q. To what do you attribute the loss of weight during such experiments?

A. That is almost entirely the loss of water. As I have already told you the excess salt supply in the body deprived the body of water. The body must have a supply of water if it is to supply salt. In other words, if the body is not receiving any other water than sea water the attack against the water held by the body must take place, and therefore a loss of weight is bound to happen, which, however, can be caught up with instantly.

Q. What would you say to be expected in the way of the loss of substance of the body and how much loss of water?

A. I would say the bulk is the loss of water, but to split this up is something I consider impossible to do with certainty. You might possibly compare just how much was lost during the time applied by Schaefer when there was considerable hunger and how much was lost in the case of water.

Q. Does the speed play an important part with which the loss of water takes place?

A. Yes, of course, a tremendous part. The colored nostras is a well-known example during which disease, the most tremendous loss of water and salt takes place during 24 hours. I knew a case where 10 liters of water and 150 grams of salt had to be added intravenously through the veins, the skin and through the stomach in order to save that particular life of a person suffering from such an acute loss of



water. If on the other hand this is spread out over a period of days and if you do not have to expect such a dangerous loss of the salt, then the body can stand up to it for a much longer period. I might perhaps add that the loss of salt is just as dangerous as excess quantities of salt, and also in the event of the loss of salt which is always connected with water considerable losses of weight are suffered. It is well-known that an expedition on the mountain Monte Rosa lost 5 kilograms,, and the loss of salt and water, and that the weight could not be replaced in spite of the addition of water when salt was also added.

Q. Professor, according to the documents at your disposal were these experiments sufficiently well prepared?

A. It was my impression that they were extremely well prepared, and I was particularly impressed by the fact that Beigelboeck had sufficiently examined the participants carefully and had considered the use of them to be unadvisable since he found a defect of the lungs.

Q. I also want to deal with such preparations---

MR. McHANEY: I do not think by any stretch of the imagination can this witness testify from the records that Beigelboeck conducted an examination or rejected three experimental subjects. In my opinion it does not appear from the records, and he can only testify what Beigelboeck told him. Unless he can say it does appear in the records I think it should be stricken.

THE PRESIDENT: Counsel has an opportunity of cross-examining the witness at the close of his testimony.

Q. Professor, would you not say that preparation for these experiments also means that certain experiments, such as experiments on oneself and animal experiments, printed preparations, if you like, must have been in existence or



was that true of this case?

A. Yes, a report from Beigelboeck about an experiment carried out upon himself is in existence which describes the condition most efficiently, in which he found himself during a sea water experiment, and this description tallies to the highest possible degree with what my volunteers have described who have submitted themselves to these experiments. I might deal with that later.

Q. What opinion do you have regarding the experiments which were carried out by Sirany in Vienna?

A. There appeared to lack a critical attitude to me. I think Schaefer had the same impression yesterday.

Q. Are symptoms recognizable regarding the planning of these experiments which would go beyond the absolutely essential practical purposes and which would lead to considerable pains or painful feelings or might have lead to that?

A. Of course it isn't fun to be thirsty, and that is the major complaint in these cases. These people are increasingly thirsty, and they are disappointed to find that the administering of sea water doesn't decrease it, but increases their thirst, and towards the end of the experiments are disturbances of the muscles and the mood doesn't exactly improve. It is the same in the salt water experiments where there are cramps of the calf, because of the lack of water, but the characteristics of that are these symptoms disappear instantaneously at the very moment when the first glass of water is drunk.

Q. Would you consider it possible that disturbances of the nerve end might appear, - temperature?

A. Temperature doesn't happen at all, and I can't imagine there are disturbances of the nervous system at all.

Q. How about rage?

A. In the case of insane people there may appear insane rages, maybe, but not in the case of normal human beings.

Q. If you yourself had been placed in this condition would you consider your attitude toward medical ethics, do you have objections to carrying out the same type of experiment as was carried out here, if healthy strong young men had been at your disposal?

A. I actually did it. Since I was interested in connection with sea-water experiments. I called for volunteers among my young doctors, and five of them volunteered, amongst them my youngest son, and they drank the synthetic sea water, having the exact amount content of sea water to the extent of drinking 500 cc; they got a little food, because they were to continue on duty during the experiment. The loss of weight varied and was around one kilogram a day. At the end of the experiment my son got pretty thin, but after having a cup of tea was fine. Two days later he had regained it fully. All five participants described the experiment in the same way as Seigelboeck described the experiment carried out on himself. Four of these subjects interrupted the experiment after five days. One carried it out for six days, and outside of the present thirst he had no complaints. Any serious disturbance or damage is out of the question, and the extraordinary fact was the speed with which all symptoms of thirst disappeared after water had been administered.

Q. Would it have been possible at all to carry out such experiments if experimental subjects had not cooperated willingly?

A. No, you can only carry out such experiments with volunteers because that collaboration is indispensable, but that does not exclude that they might treat the man in charge of such experiments, such as many educated persons will try to deceive the medical expert during such cases and they will probably eat a beefsteak during such a hunger cure or drink something during thirst treatment. In this case then there were some failures and some did get a hold of drinking water secretly.

Q. Professor, you said that the cooperative attitude of the experimental subjects is indispensable; might I ask you just why it is indispensable?

A. Because thirst, as I have told you, is not a pleasant symptom over a lengthy period. It is quite unpleasant to be able to think of water alone and dream of water and to have a dry mouth and a dry throat. Thus, you have to have a certain amount of power of resistance. I can well imagine that uneducated and weak individuals might lose their willingness to collaborate after that.

Q. But it is not right to say that for the same reason it is indispensable if the observing doctor is depending of the statements made by the experimental subjects if he cannot control and check everything that goes on in the man's mind.

A. That is correct, but the analysis later on would show that the man had something to drink during the findings.

Q. Did you see any photographs of the experimental subjects?

A. I saw the pictures, the naked bodies, and I saw



they were strong, well fed and well-conditioned people.

Q. Do you know, Professor, to what extent and in what direction fliers and sailors of other nations had been equipped in order to survive the ship-wrecks?

A. There were a great variety of experiments, but I don't think that is important because they were made with water catching sails, etc., but at any rate they did not have that excellent drug, Wolfatite.

MR. HARDY: The witness has just testified as to the condition of subjects used in the experiments as he saw in pictures. Inasmuch as the witness has testified to that effect, the Prosecution desires to see the pictures which the witness and defense counsel has mentioned. They are in the hands of the defense counsel for Professor Beiglboeck and the prosecution thinks it is only fair that they be turned over to the prosecution at this time.

THE PRESIDENT: On cross-examination the prosecution may request to see the pictures. Counsel for defendant may exhibit the pictures to the prosecution; they have no objections.

MR. HARDY: Your Honor, it would be rather late for us to study the pictures between now and during the time of cross-examination.

THE PRESIDENT: If the pictures are available, I think the defense counsel should submit them to the prosecution for examination.

DR. HARK: Mr. President, I myself do not have these photographs and I would think that later on during Prof. Beiglboeck's testimony or during Dr. Steinbader's examination with the witness of Professor Vollhardt, the opportunity will arise to show the photographs.



BY DR. MARX:

Q. Now, Professor, the experiments we were talking about; did they have a practical valuable aim and did they show a corresponding result?

A. Yes, that is correct. For instance an important observation was made which Eppinger had expected and desired to carry out to see if the kidneys did concentrate salt under such extreme conditions to an even higher extent than one expected previously. One thought that it would be something like 2.0% but 2.6 or 2.7% and record figures of 3.0, 3.5, 3.6 and 4% are shown so that the fortunate man who is in a position to concentrate 3.6 % or 4% of salt would be able to live on sea-water for quite a long period.

THE PRESIDENT: Witness, after a question is propounded to you by your counsel, would you pause a moment before giving your answer so that the question may be translated and conveyed and when you begin to make your answer, would you speak a little more slowly?

THE WITNESS: Finally, one unsuspected fact occurred which may be connected with this and that is the result that the drinking of small quantities of sea-water up to 500 cc given over a lengthy period turned out to be better than pure thirst.

BY DR. MARX:

Q. What do you think of Wofatit generally?

A. It is a wonderful think.

Q. Is it correct to say that sea-water really assumes the character of drinking water through it?

A. Yes, the only difficulty would appear to be to obtain the drug in sufficiently large quantities for a man who is sea-wrecked and did not have his luggage; but it is a wonderful discovery.

Q. So, you think that the result of these experiments does not only have importance in the case of a war, but is of importance for the problems of sea-faring nations?

A. Quite right, it is a wonderful thing for all sea-faring nations.

Q. So that both the experiments with Mofatit, as well as the experiments made regarding the symptoms when such a drink was not available, were important to display, such for instance as the consumption of sea-water in certain given doses.

A. That is quite correct.

Q. That was only discovered by use of these experiments?

A. Quite correct.

Q. Mr. President, I have no further questions to the Witness Vollhard at this point.

THE PRESIDENT: Any other defense counsel have any questions to be propounded to this witness?

BY DR. STEINBAUER: (Defense counsel for Defendant Prof. Dr. Beiglboeck.)

Q. Witness, first of all may I put a formal question to you. The Prosecutors, are, as a rule, the most suspicious people. It is quite possible that these Prosecutors might state that the documents which I have submitted are colossal forgeries by Professor Beiglboeck. Let me ask you then, as a scientist, would you consider it possible that these documents which I have given you for your expert opinion are original documents or if they are forged?

A. I consider that the latter is out of the question.

Q. Thank you. You also have had an opportunity to look at the weight tables which I submitted already in document book 2; would you consider that the figures regarding weights and loss of water contained therein are correct?

A. Yes.

Q. One further question; Do you believe as a scientist that one could not have saved oneself the trouble of these experiments and satisfied themselves by animal experiments?

A. In the case of problems of water and salt metabolism that is not to be assumed for the simple reason that rabbits and dogs react differently, that is the difference between vegetable and meat eating beings. The dogs, our most important experimental animal, has no perspiration glands, and can concentrate water much more efficiently than the human beings.

Q. Let me come back to the question of diarrhea once again; Do you consider diarrhea occurring a fortnight or two later after the conclusion of the experiments as being connected with sea-water experiments?

A. I consider that out of the question because sea-water experiments lead to constipation and how one may suffer from diarrhea afterwards is a mystery to me.

Q. Is it correct that during lack of water the body restrains the perspiration intensifies and the going off of perspiration through the pores?

A. That is correct.

Q. Would it be right to assume that the consumption of fresh water by the experimental subject would reduce the subjective and objective symptoms considerably?

A. Yes, you have to assume that. It is extraordinary how much the subjective symptoms are decreased by small quantities of drinking water.

THE PRESIDENT: Counsel, the Tribunal is about to go into recess. I see no possible reason why counsel for the defendant should not submit these photographs to counsel for the Prosecution. I feel compelled to direct that counsel show these photographs to the Prosecution. I see no reason that they should not.

The Tribunal now will be in recess for a few moments.



THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Counsel may proceed.

BY DR. STIMBAUER:

Q Professor, before the recess we said that the ingestion of even small quantities of fresh water influences the subjective and objective condition of the subject. Now, the question - from the tables of weights that have been presented, can it be ascertained whether the subjects have drunk fresh water?

A That is certainly possible, since the loss of weight must occur with a redundancy of sodium nitrate and the weight is not lost if fresh water is drunk.

Q Ignoring the question of the state of the blood, the content of nitrogen, etc. A witness here mentioned a certain incident that occurred, a screaming spasm, a tetanic spasm; do you regard that incident as dangerous?

A No.

Q Why not?

A Screaming spasms occur in cases of hysterical persons. This was not tetanus. This was a tetanoid condition which occurs like the cramps in cholera, and the increase in muscle irritability in the sea-water experiments. This is entirely unimportant. That it was not true tetanus can be seen from the fact that the most important symptoms of tetanus were missing.

Q Then, summing up, I should like to ask you, is it correct when I say that the experiments made very high demands especially on the will-power of the experimental subjects?

A Yes, you can say that.

Q. In carrying out the same experiment in a hospital, would it also have been necessary to keep the experimental subjects segregated and under strict control?

A. It would have been even more necessary. It takes a great strength of will to subject oneself to thirst.

Q. Was it medically justified for Beiglboeck to continue the experiment after it was discovered by analysis that the person had secretly drunk water?

A. The experiment should really have been begun again.

Q. Now, to exclude any possibility of doubt, your answer applied to people who have carried out the experiment the way they should and have drunk only sea water?

A. Yes, that is so.

Q. Now, does this experiment involve special pain or torture for the subject?

A. That would be an exaggerated statement, but thirst is a torment. I draw your attention to the ancient myths of Tantalus and Sisyphus. Of course, it is a torment not to be able to drink and to dream about drinking, but my men said it wasn't really so bad that it could be called torture.

Q. Now, let me ask you, to sum up, what about fatalities in these experiments? Are they impossible or not?

A. They are entirely impossible.

Q. Do you consider a lasting injury to health possible or impossible?

A. That is just as impossible as fatalities.

THE PRESIDENT: Counsel, will you instruct the witness not to answer your question until the interpreters have fully completed interpreting your question?

BY DR. STEINBAUER:

Q. Professor, I ask you to answer in such a way as to permit the interpreters to have finished translating the question.

Now, I have one last question to put to you.

If fatalities and serious injury to health are assumed as a hypothetical possibility, then I want to ask you whether you, as a physician, embrace the point of view that arranging and executing such experiments are offenses against humanity.

A. If I did, I would not have carried out the experiments on my own son and on my students. There can be no question herein of inhumanity or of brutality, as little as in the case of therapeutic hunger and thirst cures, which I like to carry out. In view of the good food given to the experimental subjects, I should like to mention that one of the women whom I treated in this way had the pitiful weight of 51.7 kilograms and lost three kilograms during the experiment.

DR. STEINBAUER: Mr. President, during the recess I gave the prosecutor photostats and photographs of the experimental subjects so far as I have them. I shall show these, if the Tribunal wishes, to the Tribunal, but I should prefer to submit the originals, at least, to the Tribunal in the course of my case, which has suffered anyhow because the expert came first and not last. At that time I shall give them exhibit numbers.

THE PRESIDENT: The photographs may be submitted to the Tribunal later in the course of the examination.

DR. STEINBAUER: No further questions.

THE PRESIDENT: Any questions to be propounded to this witness by any other defense counsel?

DR. FLEMING (Defense counsel for the defendant Krugowsky): Mr. President, I ask permission to ask the expert witness four questions regarding the circulation of the blood.

THE PRESIDENT: Counsel then desires to make this witness his own witness for this purpose?

DR. FLEMING: Yes.

THE PRESIDENT: Very well, proceed.

BY DR. FLEMING:

Q. Is it true that after typhus there is frequently a weakening in the circulation of the blood?

A. Yes.

Q. Can blood-letting in such a case have a good therapeutic effect?

A. One can't answer that in general. It depends on the specific case. In general, if the circulation is weak, one avoids blood-letting.

Q. In the case of convalescence after typhus, do you consider that blood-letting to an extent of 400 cc in order to make typhus serum - do you consider that is permissible?

A. Yes, we do that to get serum, because that blood can later be replaced, either by transfusion or by some liquid or by food. In general, the body can well stand such blood-letting.

Q. And a last question. So far as you know and assume, can blood-letting to the extent of 400 cc in a person convalescing from typhus, who is in an average good state of health, bring about death?

A. I cannot imagine that it could.

Q. Thank you. No further questions.

THE PRESIDENT: Any other questions to propound to the witness by any other defense counsel?

There being none, the prosecution may cross-examine.

#### CROSS-EXAMINATION

BY MR. MC EASLEY:

Q. Professor, you are prepared to testify to this Tribunal, as an expert, that the withdrawal of 400 cc of blood from a person convalescing from typhus and who, we shall assume, is in a weakened condition is perfectly permissible and would be recommended by you?

A. I consider that permissible for the purpose of getting serum if one is in a position to compensate for the loss.

Q. And suppose there was no compensation by way of blood transfusion?

A. In that case sufficient additional nourishment and liquid or



even an injection of sodium nitrate solution will suffice. At any rate, there would always be some way of compensating for a rather unimportant blood-letting of 400 cc.

Q. Would you, as an expert, recommend the withdrawal of 400 cc of blood from a typhus patient, without compensation?

A. That depends on just what sort of food he requires.

Q. Well, let's suppose he is a concentration camp inmate and he is receiving 1500 calories a day. Would you recommend that 400 cc of blood be withdrawn from that patient, suffering from typhus, without any compensation by way of food or otherwise?

A. I do not believe that would do him much harm.

Q. Would you recommend it?

A. No, I can't say that I would.

Q. Do you think that with 1500 calories per day and with no compensation by way of injections or blood transfusions the withdrawal of 400 cc of blood would not weaken that patient?

A. Of course it would weaken him, but he would recover from it.

Q. How do you know he would recover?

A. We have so many blood donors who do not receive more calories than that. Previously, it was customary that the person who donated blood received some compensation, but later this compensation became smaller and smaller, and the number of calories which they actually received - not just on paper - also became smaller and smaller. Consequently, it happens very frequently that they donate blood without being thereby injured.

Q. Well, but these blood donors were not suffering from typhus, were they, doctor?

A. No, but we also like to take blood from persons sick with typhus because we want that for serum. This we do not do at the moment because we have no typhus today. However, when we did have it, we did take blood from persons convalescing from typhus.

Q. Did you ever have any typhus patients under your care?

A. Yes, of course.

Q. Did you ever withdraw any blood from them as they were convalescing to make serum with?

A. Not I, but my assistants did.

Q. Under what conditions was that done? How much did you withdraw?

A. I can't tell you that today. It was also 400 cc, I believe.

Q. And how many calories were they receiving?

A. I can't tell you. At least, in the hospital it was more than outside. Taking blood from persons isn't looked on by us as so tragic a matter.

Q. What stage of recovery was this patient in from whom you directed that blood be withdrawn? Had he recovered completely from typhus?

A. I can't say that, because all that was done by my assistants. They wouldn't have chosen for this anyone who had suffered particularly serious case of typhus.

Q. In other words, a person who had a very severe case of typhus would not be used for the withdrawal of blood, is that right?

A. That is a medical instinct.

Q. Did you compensate these patients from whom you directed that blood be withdrawn by blood transfusions or by further feeding?

A. I can't tell you that now whether we did that. That was too long ago.

Q. But you would have recommended that as good practice, would you?

A. Yes, I would have told my assistants that, of course--

Q. Do you regard the defendant Schneyer as an expert on sea-water problems?

A. I believe he knows enough about that problem.

Q. Are you familiar with the name Professor A. C. Ivy?

A. Yes, I believe he has concerned himself with these problems, too.

Q. Well, have you read any papers by him, or are you acquainted with his reputation in medical circles?

A. Not very well, nor can I remember whether among the many things I have read on sea-water there was a paper by Ivy.

Q. Can you testify whether Dr. Ivy is regarded as an expert on sea-water questions?

A. I know nothing about that.

Q. On what precisely is your testimony with respect to the experiments by Siegelboeck based?

A. On the records and the descriptions that Siegelboeck made of the experiments.

Q. Precisely what records have you seen on these experiments?

A. The records that the defense counsel had yesterday or today in his hand.

Q. Doctor, I will have passed up to you a set of records which are numbered from one to 44 in red pencil, and I ask you, did you have those records before you and did you make a study of them?

A. Yes, I had these records, and I asked one of my collaborators who took part in these experiments to read through these records and to make excerpts from them. He happens to be here also.

Q. Who was this collaborator?

A. One of my assistants by the name of Werner. He is at the time among the audience.

Q. You said something about his having participated in experiments; you don't mean the Dachau experiments, do you?

A. No. In experiments that I carried out with my students.

Q. Did you personally examine these records at all?

A. I saw them, but I didn't study every one of them. I left that up to the young man.

Q. And what did the young man do?

A. He gave me a very exhaustive report on them.

Q. In what form was his report; what did he have to tell you?

A. I should prefer to show you the report itself.

Q. Do you have it with you?

A. Not at the moment, but I do have it in my belongings. During noon recess I could fetch it for you.

Q. Your testimony, then, is based upon a summary made by your assistant, is that correct?

A. Yes, that is so.

Q. Now what other records were made available to you upon which your testimony is based here?

A. The charts that were filled out in pencil with figures.

Q. I'll have passed up to you a paper-bound book with the



name "Schuster" written in pencil on the front of it, and down below in indelible pencil two words which I cannot decipher; I will ask you to read them into the record when the booklet is passed to you; was that booklet made available to you?

A. No, at least I have not studied it.

Q. You have never seen that book before?

A. I don't believe so. Perhaps it was given to me at the same time, but there are too many statistics and figures in here. I haven't looked through them all. This is a laboratory book. The two words on the book are "gastric juice, millimeter paper", and this is no doubt a record used in compiling the original report. It is a so-called laboratory book.

Q. But whether or not the book was given to you, at least you are clear that you made no study of the book, is that right?

A. Yes, that is so.

Q. And you don't know whether it was turned over to your assistant?

A. That I don't know.

Q. In any event, he presented you no digest of facts based upon that book, did he?

A. No.

Q. I pass you now Beigelboeck Exhibit No. 36, which has not yet been offered. This is in fact an English summary, but I think perhaps the witness might be able to testify about whether or not this was made available to him.

A. Yes, this I have seen.

Q. Did you personally make any study of that?

A. Yes, I looked at that personally.

Q. What does that record purport to show?

A. This shows the changes that took place in the body weight. It is broken down into loss of water, loss of body weight, percentage of the body loss, and so forth.

Q. Did you turn that over to your assistant, and did he make a summary of that record?

A. Yes, he also reported on this, but I myself looked at this very carefully also.

Q. That shows only the weight changes, is that right?

A. By and large, yes. But I said there are all sorts of theoretical calculations here about loss of water, the water retained, the probable absorption of fluids, and so forth.

Q. Now, I think you also said you saw some pictures; this has been marked as Siegelsoeck Exhibit No. 34.

A. Yes, I have seen all these too.

Q. In what form did you see these pictures, did you see the originals or did you see photostatic copies, such as those?

A. I saw them in this form.

Q. Then you never saw the backs of these pictures, did you?

A. No.

Q. You don't know whether on the backs of these original pictures the names of the experimental subjects appeared, do you?

A. No, I don't.

Q. Will you look at the photograph on the page marked number 5 thereof? You will find in ink a Roman V on one of the sets of pictures. Do you observe the picture where the young man is lying in bed, apparently with a tourniquet around his arm, and in the lower left-hand part of the picture a hypodermic syringe?

A. Yes, I see that.

Q. Have you been informed that these pictures are pictures of the experimental subjects during the course of the experiments?

A. I assumed so; moreover, the experiments were concluded by injections, in the thirst experiments with sodium nitrate solution, in the sea-water experiments with sugar solution, by intravenous injection which immediately improves the condition.

Q. Upon what is your opinion based that these are pictures of the  
second experimental subjects?

A. All of the pictures or just the one with the syringe?

Q. All of them.

A. I assume so, because the defense counsel put them to me as  
such.

Q. Dr. Steinbauer told you that that is what they were, is that  
right?

A. Yes.

Q. Now, this picture which I have called your attention to on the sheet marked No. 5, would you say that this picture shows a man who apparently has had somewhat of an unpleasant time of it, who is in some pain, or who was in some pain at the time this picture was made?

A. Whether he was in pain or not, I don't know. At any rate he seems to have suffered some effects from the experiments.

Q. Well, for the benefit of the Tribunal, you would say that his facial expression in this picture indicates that he is suffering some pain, wouldn't you, Professor?

A. I should not say that, no. He looks as if the experiment had had some effects on him, he looks worn out and exhausted.

Q. How many experimental subjects can you say were used in these experiments, based upon the study of the records which were made available to you; can you make any statement about the number of subjects used?

A. As far as I know there were 44 subjects.

Q. And upon what is that statement based?

A. On the reports that I received on the experiments.

Q. The written reports?

A. Yes.

Q. Will you look on page 4 of this series of pictures; do you see the picture in the lower right-hand corner?

A. Yes.

Q. Do you find a number written on this man's chest shown in this picture?

A. I think I see the number 4.

Q. Don't you find a number in front of the 4, Professor?

A. Yes, but it is very unclear, it could be a one, and the total number would then have been 14.

Q. Don't you find a rather sharp curlicue at the bottom of this figure which you want to read as one, which might indicate to you that it was a six, and that the full number is 64?

A. I don't read that as a 64. If I am going to take that



little curlicue into consideration, I should take that as a zero.

Q. Suppose you turn to page six; do you see the experimental subject who is lying on the bed in the lower middle picture?

A. Yes.

Q. Would you say that this experimental subject appears to be in robust health?

A. No, I should say that he is emaciated, as can be clearly see.

Q. Well, you don't know whether that was the result of the experiment he underwent or whether he was chosen in that condition to begin with, do you Doctor?

A. That I don't know.

Q. Now, were these the only records made available to you -- the series of individual reports which I passed up, the weight chart and the pictures?

A. I also saw a collection of records written in pencil.

Q. Do you know where they are now?

A. I assume that the defense counsel has them.

Q. What did these records show?

A. They also contained a large number of statistics on gastric juice, loss of weight, and all sorts of clinical findings -- the number of red blood corpuscles, etc.

Q. And did you personally study these records?

A. I saw them but did not study them.

Q. They were given to your assistant?

A. Yes.

Q. Now, were there any other records <sup>that you got which we</sup> haven't heard about, on which your testimony here is based?

A. I cannot say at the moment.

Q. You would have to confer with ---

A. I believe that the defense had reports by Becker-Freysang and by Beiglboeck?

A. These were reports on the whole development of the question.

Q. Well, Professor, what sort of reports were they? We have not seen them, you know, and we would like to know on what you are basing your opinion before this Tribunal.

A. Descriptions of the whole course that the matter took regarding the conference, how the decision was reached, how the experiments were planned, and then Beiglböck's report on his own experiments on himself, which is a very careful description and corresponds exactly to what my subjects experienced when they carried out experiments on themselves.

Q. Did you read and study those experiments carried out by Becker-Freyseng and Beiglböck?

A. Of course.

Q. And they influenced your testimony before this Tribunal; you relied on them in making your testimony here?

A. From these I had an idea of the situation as a whole, in order to form my own opinion or I performed experiments myself.

Q. And your testimony here is based in part upon the reports made by Becker-Freyseng and Beiglböck; that is true, isn't it Doctor?

A. Yes.

Q. And these records made by Becker-Freyseng and Beiglböck were not contemporaneous records of these experiments, were they Professor?

A. I don't believe so.

Q. They were, rather, essays or reports which they have written up since their arrest and incarceration; isn't that true, Professor?

A. That is very possible.

Q. How old a man is this assistant of yours, Professor?

A. Twenty-six.

Q. Twenty-six years old?

A. Twenty-seven.

Q. Twenty-seven years old; has he studied medicine?

A. Of course.

Q. Where did he study?

A. Heidelberg.

Q. Now Professor, I will ask you to testify from your own memory,

and if defense counsel wish to put your assistant on the stand, they are privileged to do so; but I am interested primarily in knowing what you know about your assistant. Now, you did not know he studied at Heidelberg until he told you just now?

A. I have 40 to 50 young men at the clinic, and it is impossible for me to know of each one where he studied, but I made his acquaintance at the clinic. He is a very industrious and intelligent person and for that reason I asked him to do this work and take some work off my shoulders.

Q. How long has he been working with you?

A. More than a year.

Q. Working with you about a year, and since that time you have conducted these sea-water experiments yourself?

A. We carried them out shortly before Mardi Gras.

Q. Of 1947?

A. Yes, this year.

Q. How did you happen to carry out these experiments; were you requested to do so by defense counsel?

A. No, I had been asked very often to interest myself in this matter, and I myself was interested to see myself, the effect of sea-water on the experimental subjects. This was interesting to me because I already had considerable experience in the field of hunger and thirst.

Q. Were you approached at all with respect to this case before the time you started these seawater experiments?

A. Yes, that is why I started to interest myself in the matter, because I was asked to appear here as a witness, but I carried out these experiments entirely spontaneously, without outside interference and on my own interest.

Q. But the fact that you were approached to come here and testify influenced your decision to carry out these experiments, is that right?

A. Of course, of course.

Q. And did you make any effort to have these experiments coincide with the conditions which you were told existed in the Dachau experiments?

A. Yes, we made only one distinction in this, namely, that the experimental subjects received roughly 1,600 calories a day, because they were not to interrupt their work. To be sure, as the experiment went on they ate less and less of the 1,600 calories, because the thirst made them lose their appetite.

Q. You experimented on five men?

A. Yes.

Q. Before we go on to that experiment, I would like to go back to the records a little bit; when did you first get these records?

A. Which records?

Q. The records which purport to be records on the experiments of Beiglböck in Dachau?

A. You will have to ask Dr. Steinbauer when he sent me those records, I don't know.

Q. You don't know how long they were in your possession?

A. No.

Q. Can't you say approximately; one month, sixty days, ninety days?

A. Perhaps one month.



Q When did you return them?

A I brought them with me.

Q Then you returned them yesterday?

A That is right.

Q Did you get them from Dr. Steinbauer?

A Yes.

Q And you returned them to Dr. Steinbauer?

A Yes.

Q Did you make any changes in these records?

A No, no.

Q But you yourself aren't very familiar with them, are you?

A Not very, no.

Q Can you state whether the records which I have just passed up to you, that is to say, those records numbered from 1 to 14 in red pencil, can you say whether those records bore the name of the experimental subject at the top of the page?

A I didn't interest myself in that.

Q I pass you up a numbered sheet picked at random from this group; it is marked No. 2. I will ask you if above the word "name", it does not appear that a name written in pencil has been erased?

A That seems possible.

Q Do you mean to say that is so? That the name has been erased, isn't that what you mean to say?

A No, I wouldn't say it is possible. It looks as if a name had been erased. One can still see traces of it.

Q And you didn't effect that erasure yourself, did you, Professor?

A No, no.

Q Do you know whether your Assistant did?

A I think that is quite out of the question.

Q I will ask that that particular sheet be passed up to the Tribunal and I will remark that a number of other sheets are in the same

condition. We will have a careful study made of them and make a report at the proper time on that problem.

Have you ever seen a full list of the names of the experimental subjects?

A No.

Q Now, I take it you have no personal knowledge about the Dachau experiments with sea water conducted by Beiglboeck?

A No, I wasn't present, if that is what you mean by personal knowledge.

Q And you had no associates who participated in them and reported to you about them either, did you?

A No.

Q Your sole knowledge about these experiments is based upon these records which we have gone over and what you were told by Dr. Beiglboeck and Dr. Becker-Freytag? Is that right?

A Yes.

Q Now how many experimental subjects did you use in your experiments?

A Five of them.

Q And you say that they were volunteers, your assistants, is that right?

A Yes, they were all doctors, volunteers, and, as I said, included also my youngest son, who also happens to be here.

Q And precisely what happened during these experiments?

A These persons were assembled in one room, received the same amount of salt each and pretty much continued their work. They drank 500 cc of sea water and one of them drank 1000, and they stuck pretty close to the provisions set down for the experiment.

Q You say four of them drank 500 cc of sea water per day and the fifth one drank 1000 cubic centimeters of sea water?

A The fifth drank on one day, I think, on the last day I think he drank an additional 500 cc, because he was very thirsty.

Q When did you start the experiments?

A On the Monday before the beginning of Lent.

Q And how long did they run?

A As I said, four, because of the carnival season, broke off the experiment after four days and one of them stuck it out for six.

Q Well, you spoke of four days, do you know how many hours they were under the experiments?

A Five times twenty-four in general and the other one six times twenty four.

Q Well, I misunderstood you, or also your testimony has changed; you said four of the students stayed on the experiments for four days and one went for six days. Is that right?

A No, four did it for five days, four broke off at the end of the fifth day, and one stayed until the end of the sixth day.

Q And you are prepared to testify it was five times twenty-four, is that right, 70 hours?

A I would have to check on that for sure in the record, whether it was five times twenty four or four times twenty-four, or sixteen or eighteen. Those things didn't seem very important to me. I was interested primarily in seeing how greatly the persons suffered under the experiments, but the man who did it for six days, did do it for six times twenty-four hours. However, I don't want to make a statement for certain under oath regarding the number of hours.

Q Well this little experiment conducted by you, as I take it, had as its purpose to find out how much a man suffers, is that right?

A Yes.

Q You didn't know that before you conducted this experiment, is that right?

A I assumed that they would be very thirsty but I wanted to see what the subjective sensations or feelings of the experimental subjects were. What was the most important to me was to know can these

experiments be characterized as cruel or inhumane or brutal, and are they experiments which lead to a pretty strong sense of discomfort, namely, thirst, but do not do any damage to health, that is, what I wanted to know.

Q And your testimony before this Tribunal is based upon those experiments; is that right?

A No, on both, of course, both on those carried out by Beiglboeck and on my own.

Q Well, your judgment was also influenced by what Beiglboeck told you about how much the experimental subjects suffered, is that right?

A Beiglboeck drew up his own report on his own experiment on himself and a general report on whatever complaints the subjects uttered.

Q What is that the experiment Beiglboeck conducted by himself? You mean he has been undergoing an experiment back in the prison?

A No, before the experiments began, he carried out a sea water experiment on himself.

Q Where did these experimental subjects of yours stay during this experiment? I seem to recall you said they continued their work or something of the sort.

A They all stayed in one room where they ate and slept and this was done to make the conduct of the experiment easier, as they were to receive special rations.

Q Well, now there were all five experimental subjects in one room during the whole course of the experiments, is that right?

A Yes.

Q And what did they do?

A They went from this room to wherever they had to work but they returned to the room for sleeping and eating.

Q Well, doctor, we are having great difficulty in really getting a clear picture about how this experiment went on. Now you mean



to say they carried on their work about the clinic? They didn't stay in this room the whole time, is that right?

A Yes.

Q They actually only ate in the room and slept in the room; is that right?

A That is correct.

Q Did they leave the clinic at all?

A I believe that they did not during those days.

Q But you don't know?

A I can't swear to it.

Q You can't swear that they didn't go to a local cinema during the course of the experiments for example?

A No, I can't swear to that. I just don't know.

Q In other words, they had their normal daily life available to them during these experiments?

A They carried on their daily work and in this case it is perfectly certain that they did not drink any fresh water. They knew perfectly well what the point of the experiment was.

Q How much food did they get, again?

A 1600 calories.

Q And do you know what the food was?

A Yes, that is also in the record. It was meat, fat and what not, but I can't tell you that from my memory. However, I could give you the record in writing.

Q In what record? Have we gotten any record on these experiments?

A Yes, there was a record.

Q Now, they got absolutely no fresh water during the course of the experiments, is that right?

A No.

Q Did they get any other water or fluid other than salt water?

A No, that was the whole purpose, that they should receive no other fluid and that is why they lost their appetite later.

Q They got no milk and no fruit juices?

A No, no, that would have violated the whole experiment, and then they had not lost so much weight.

Q I can appreciate that, Professor. Where did you get the sea water that these experimental subjects drank?

A We manufactured it carefully in the chemical laboratory according to a chemical analysis of sea water that can be found in many text books. I have a chemist who was in charge of the laboratory and he made this sea water according to the formula. We couldn't get any natural sea water for this experiment.

Q You don't know the salt content of this water?

A I can give it to you in writing.

Q You don't know how it compares with Mediterranean sea water or sea water from the North Sea?

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A. So far as I know, it was manufactured on the model of the North Sea sea water. There was some description of it in a book somewhere and that was imitated. There are such analyses of sea water in textbooks.

Q. You say you think it was according to a formula for North Sea. Do you know whether North Sea water was used in the Dachau experiments?

A. I don't know for sure where the water came from that was used in Dachau. That wasn't the important thing to me to repeat the Dachau experiments blow by blow. As I said, we simply wanted to know how unpleasant it is if for days on end a person receives only sea water to cover his needs for liquid.

Q. When did you tell these five experimental subjects that you used that they were to undergo the experiment or when did you tell them that it would begin?

A. A few days theretofore.

Q. A few days before? Remember how many days?

A. Maybe a week before. First I had to have a conference with the kitchen to see that they were willing to prepare special rations for the five doctors.

Q. And you say this special ration was somewhat above that which the Dachau inmates got?

A. Yes. For four days people in Dachau received emergency sea rations and my subjects received about 1600 calories a day in dry food.

Q. Well, how many calories are there in this emergency sea ration?

A. For four days there are 3200 calories.

Q. So that is 800 calories a day.

A. Yes, sir.

Q. Who told you that the experimental subjects got these rations in Dachau? Do the records show that?

A. That was the plan for the experiments that was worked out in that way and I assumed that the experiments had been worked out as they had been planned, but, as I say, I laid no importance on the whole



question of the calories because the important point is the loss of body water and not loss of body weight.

Q. Now, you didn't keep any of your experimental subjects without any water whatever, did you?

A. Five hundred cc of sea water was the liquid they received.

Q. Well, weren't there some experimental subjects at Dachau who didn't get any water at all, sea water or otherwise?

A. Yes, the first group fasted and thirsted. I have already spoken about that and said that thirst can more easily be tolerated if one is fasting at the same time so that the kidney has as little as possible to do; thus the body is able to retain more water.

Q. But you can't testify to the Tribunal about what pain and suffering those experimental subjects were subjected to, can you? You didn't run any similar experiments yourself?

A. I do not understand you. I carried out these experiments to know what sort of suffering the experimental subjects went through.

Q. But you didn't carry out one where a man fasted for five or six days without either food or water. They did carry out such an experiment in Dachau. So you have no basis to testify about pain and suffering to which that group of experimental subjects were subjected, do you?

A. I mentioned that at the same time surely I was having four women fast and thirst that had come to the clinic with very high blood pressure and for six whole days these women fasted and thirsted. This so improved their condition that they consequently forgot the unpleasantness involved in the fasting and thirsting. I also mentioned among them one woman who weighed only 51.7 kilo and who lost 3. However, her blood pressure went down from 245/125 to 185/100. I carried out such experiments almost daily in the clinic. That is done in the hundreds. And, in the case of persons with kidney disease that is the accepted method so that during the war people from the fronts went through thousands of such hunger and thirst cures. I didn't have to have any

control experiment in this; that was furnished daily by the clinic.

Q. And these women went without food and water for four days?

A. Six days without food and water.

Q. And what was the result on them aside from their blood pressure? Did they suffer much pain?

A. There is no question of pain in such cases. They simply felt thirst. Strangely enough they do not complain of being hungry. The body water that still remains there is enough to keep the body metabolism supplied with the necessary chemicals. However, there is lack in the body of sodium nitrate which, however, can be overcome by giving sodium nitrate. They never complain about hunger, only thirst. Sometimes they complain of a feeling of weakness but fasting for six days is nothing very special. As I said, some people carry out hunger cures for four weeks. To be sure, they drink fruit juices during such a long cure. We also make use of it for therapeutic purposes. They will receive fruit juices but that is by no means so unpleasant as an eight days long hunger and thirst cure.

Q. And you gave them no compensation for going without food and water whatever? You have then no injections of any sort?

A. No, no. My whole purpose is to eliminate from the body all the unnecessary fluids in the blood so that the blood pressure will drop. I gradually bring these people over to a form of nourishment without any salt.

Q. Now you say that four out of five of your experimental subjects broke off on the fifth day?

A. Yes. For external reasons only, not because they could no longer tolerate it. It just happened that four of the men had dates on the 5th day, but the 5th one stayed through until the sixth day and I asked him specifically whether he felt particularly tortured or in pain and he said no. He said that with the first drink of water he took all unpleasantness and discomfort vanished. I observed my son myself. As soon as he drank a cup of tea, he was perfectly all right and two days

after the experiment he had recovered all the weight he had lost. He had lost roughly one kilo a day.

Q. You say these four men had a date on the 5th. You mean they had an engagement with a young lady?

A. I do not know what the details were planned for the carnival celebration. I could simply draw the regrettable conclusion that the interest in the carnival was a little more than the interest in the experiment.

But this does indicate that the experiments did not have a very deleterious effect on them, otherwise they could not have gone to the carnival and enjoyed it.

Q. Well, it might also indicate that they didn't regard the experiments as being very serious and that, even though several men in this dock are quite interested in the results of this particular experiment, your four young assistants didn't regard it as serious enough to refrain from going out on a date. Isn't that about the size of it?

A. I can't deny that. I wasn't too pleased by their behaviour.

Q. Were these men informed of the seriousness of this undertaking?

A. No.

Q. And what reason did you advance to them for undergoing the experiments?

A. Of course, I told them and this was known that such sea water experiments were an issue, but I was perfectly convinced that these experiments could by no means be called inhumane or brutal and consequently we didn't approach the experiments in too tragic a manner. All we wanted to know was how unpleasant such an experiment was.

THE PRESIDENT: The Tribunal will be in recess until 1:30.



AFTERNOON SESSION

(The hearing reconvened at 1330 hours, 3 June 1947.)

THE MARSHAL : The Tribunal is again in session.

DR. FRANZ VOLKHARDT - Resumed

CROSS EXAMINATION (Continued)

BY MR. McHANEY :

Q.- Professor, what experience had your assistant who helped you in your sea water experiments had in sea water problems before that time ?

A.- None. Perhaps I could take this opportunity to make a few corrections. I have been told that the interpreter failed to say that I said that the sure proof for the correctness of our experiments -- and that the experimental subjects had not drunk any fresh water, was that otherwise they would not have lost as much weight as they did. Moreover, I also said five times twenty-four hours and I added once eight hours less and once twenty-four hours more. Then I made a mistake saying that the emergency sea rations were 3200 calories for four days. I have been informed that in reality they were 2474 calories.

Then I spoke of students when speaking of my experiments. Perhaps the English word "Students" refers to students in a University or some school. I should like to say that all of them were accredited doctors one of which had taken his Doctor's degree as early as 1941.

Q.- You have just said that the assistants who worked over these records submitted to you by the defense had no previous experience with sea water problems. Is that correct ?

A.- Yes. That is so. Moreover, I had had none either. Moreover I would not have found anybody with any experience





in sea water experiments because this was the first time that people had carried out experiments on themselves.

Q.- Have you ever before studied questions concerning sea water ?

A.- Yes, of course I read literature on the subject, even foreign literature including the work of Liddell and a large number of other works, also reports on persons who had suffered shipwreck, the literature on how long after a person had suffered shipwreck he could still be saved, but I cannot recollect any details now.

Q.- You had yourself done no practical research on problems in connection with sea water ?

A.- Not in this field but in the field of hunger and thirst I had.

Q.- What do you mean by -- you had done research in the field of thirst ? What research had you done ?

A.- I couldn't list all of the investigations I have carried out. That covers a period of, probably, 30 years, and in general, the important element is the behavior of the residual nitrogen. This is the important point, aside from the elimination of salt, and the mechanism that produces residual nitrogen suffers, both in cases of a superfluity and in cases of too little salt because of the lack of water. This example of acute de-salination in the case of cholera shows that slag is retained in the blood in the same way as in the diseases of the urinary tract.

Q.- Professor, could you tell us the day-by-day clinical symptoms of the experimental subjects in your experiments with sea water ?

A. I have already reported on that and said that on the first two days the thirst was no severe, on the third day it became unpleasant, and on the fourth day the thirst was again reduced, and on the fifth day it became very strong, the mucous membranes in the mouth were dried up so that the situation was quite unpleasant.

Q. What about the man who underwent the sixth day?

A. He suffered no ill effects at all and said that it hadn't made much difference to him one way or the other. And one of them on the fifty day, attended a court proceedings where he had to defend a friend of his.

Q. Well, can't you give us a few more details about the subjective reaction of these experimental subjects?

A. Muscles became somewhat hard and more sensitive so that if you tap on the muscle a muscle knot is formed but, in general, their ability to work did not suffer. However, they all felt the urgent need for water. I can guarantee that these experimental subjects did not drink any fresh water on the side. The nourishment consisted of meat butter, bread, jam, two eggs, beans and three pieces of candy.

Q. Is this information your assistant has given you over the record?

A. I looked it up in my records.

Q. And how can you guarantee that these experimental subjects got no additional water?

A. As I said, on the basis of their loss of weight and because I can rely on my assistants.

Q. But you made no blood checks, did you?

A. Blood was also tested—examined, yes.

Q. Are you going to make all of these records available to the Tribunal?

A. Yes, I can do that.

Q. In your expert judgment do you state that the experiments con-

ducted by you conformed in all essential details to the experiments in Dachau?

A. I have already drawn your attention to the differences; namely, that my subjects received somewhat more to eat because they were not lying in bed but were carrying on their regular work.

Q. Well, do you think that you would have gotten valuable results from your experiments on the problem which was facing Dr. Beiglböck?

A. I didn't understand your question.

Q. I say, if you had used Berkatit in your experiments and you used water processed by the Schaefer method and you had fed one group sea water and you had another group abstain from all liquids and all foods, your experiment would have yielded valid results, is that right?

A. I do not believe so, because I didn't expect any results from Berkatit and of the Schaefer method I knew that it would remove all the torments of thirst and I had enough experience, in general, about thirst and didn't have to have any control cases.

Q. Doctor, let's put it a little more sharply.

You apparently are telling this Tribunal that your experiments contrasted with the Dachau experiments and you base yourself upon your experiments in reaching certain conclusions about pain and suffering and about the likelihood of injury. Your experimental subjects carried on their daily activities. They worked and they were not closely confined. For what reason was it necessary that Dr. Beiglböck go to Dachau and carry out experiments on concentration camp inmates? Why couldn't he, as you, have experimented on clerks in the RM in Berlin. Why couldn't he indeed have used the defendant Schroeder in his experiments? Dr. Schroeder could continue with his daily activities, the only necessity being that he eat and sleep, if that is a particularly material factor, in a certain room?

A. I don't believe it is an expert's task to say why experiments



were not carried out in a different way. They were decided on at a conference at which such eminent scientists as Eppinger and Heubner were present. This plan was drawn up and given to Beiglboeck and he was told to carry it out without any changes.

Q. I won't ask you to speculate, Professor, but you are brought here as an expert on these problems, and I'm asking you if the experiments could not have been conducted in Berlin in a manner similar to the experiments conducted by you?

A. From the reports on the conferences and on what went on before the experiments, it could be seen that efforts were at first made to find other ways of doing these experiments-and there is no doubt that Professor Eppinger would have preferred to carry out the experiments in his clinical or in a hospital. But the war situation was such at that time that it was out of the question to making use of a large number of beds and male healthy personnel as experimental subjects for these experiments. In addition, there was a strict order that every soldier, immediately after he had recovered from his wounds should immediately be dismissed from the hospital. He couldn't even stay there for another twenty-four hours, but only as long as was absolutely necessary. That precluded carrying out the experiments on convalescent soldiers. It would have been better in every respect had that been possible.

Q. You didn't carry your experiments out on convalescent soldiers did you?

A. No, but I had enough doctors. I had more than forty doctors at my clinic from whom I could choose the volunteers.

Q. I suppose you read the conference report on the meeting held on the 15 th of May? There were about fifteen men--not the 15th of May, I think it was the 24th of May, 1944. There were about fifteen men at that meeting, weren't there? Is there any reason why they couldn't undergo these experiments and continue their daily work without undue inconvenience?



A. It is impossible to presume of the fifteen participants in a conference that they should go to a hotel, or house, or hospital and there subject themselves to such experiments. With all the necessary blood and laboratory tests.

Q. Professor, your experimental subjects didn't stay in one room all the time. They went about their business, didn't they?

A. Yes, but they lived in this room. They were all weighed in this one room and ate in this room and slept in this room and this facilitated the experiment greatly. It would have been impossible even if they hadn't eaten in the same room.

Q. Can you, as an expert, advance one valid reason perhaps other than inconvenience, why these experiments in Dachau could not just as well have been carried out in Berlin in a manner similar to the experiments carried out by you?

A. At that time there was no free bed in any hospital. Everything was over-crowded and it was impossible to find so many beds for a scientific experiment.

Q. Did the experiments have to be carried out in a hospital?

A. Yes, because it is only there that you can find the apparatus and laboratories to carry out the examinations that are necessary—examinations of blood and residual nitrogen, etc.

Q. Professor, are you testifying here, as an expert, or in an effort to justify these experiments?

A. I am testifying here only because on the basis of my observation, I can state that there was no crime against humanity involved in these experiments.

Q. And can you tell us one clinical reason why these experiments could not have been carried out in Berlin?

A. I said, for purely external reasons. Simply lack of room—lack of space.

Q. Did I understand you to testify earlier this morning that you

would have had no compunction in going to Dachau and carrying out these experiments yourself?

A. I never would have had this opportunity and moreover, had other things to do.

Q. Didn't you testify that you would have had no objection to carrying out these experiments in Dachau yourself?

A. I spoke of no objections at all. That is not a question that concerns me as an expert, of what I would have done in this case.

Q. Well it concerns me because, as I recall, you testified to that effect upon a question put either by Dr. Marx or Dr. Steinbauer?

A. I cannot recall having made such a statement. I only said that you absolutely had to have volunteers for this. That, without the voluntary element, every such experiment would have been impossible.

Q. What would happen if the experimental subjects were not volunteers?

A. The person conducting the experiment would very soon interrupt the experiment and say that that situation was impossible, or he would have to take draconian measures and lock every experimental subject up in his own cell.

Q. Well, do you exclude the possibility that they would try to cheat if they weren't volunteers?

A. If a person is in an experiment and is not voluntary in it then he will most assuredly cheat whenever he can.

Q. And did you find any evidence in the purported original records submitted to you that the experimental subjects in Dachau had cheated?

A. Yes, that can be seen from one or two of the weight charts. If the subject does not lose weight, that means that he has drunk water on the side.

Q. And your statement that the Dachau experimental subjects were volunteers is simply a statement from Beiglboeck or Becker-Freysong which you are passing on to the Tribunal, isn't it?

3 June-24 July-64 Karrow (Brown)  
Court 1

A. No, from the very beginning and for perfectly understandable reasons it was planned that the subjects had to be volunteers, and when Dr. Baigboeck eliminated three subjects because they were not in good enough state of health, three other volunteers immediately applied.

Q Did you participate in this planning of these experiments?

A No.

Q Then the statement you just made is nothing you know anything about except what was told you by Beiglboeck and Becker-Freysong, is that right?

A Everything I know I know only from the sources in question.

Q If you were submitting these records as clinical data on these experimental subjects without being told anything about it one way or the other and you ascertained as you did ascertain that a number of the subjects cheated, would you be quite so sure in your statement that they were volunteers?

A I have already said that the fact that the person is a volunteer is not a certain guarantee that the experimental subject will not cheat, you will make that experience with all patients. They feel that they have obeyed by the rules and doctor's instructions, but nevertheless you find out they did drink water or did add salt and that they did do something -- even though they were volunteers -- which they should not have done. The motto applies, "The mind is willing, but the flesh is weak."

Q Of course that is pure assumption on your part as applied to these experiments and the only concrete fact you can testify to is your observations from these purported original records that some of the experimental subjects did cheat and did obtain water, isn't it?

A You could see that from the record of the experiments.

Q Do you know what Borkatit is?

A Yes, I do. That is something to correct the taste of sea water, originally manufactured from tamarcs. It covers up the nauseous taste of sea water so that it can be drunk even with pleasure.

Q And what is your opinion about the effectiveness and reliability of Borkatit?

A I consider it completely superfluous, unless in cases of sea distress one prefers to follow the advice of drinking rather 500 cc



of sea water than to thirst. That could be pleasant to someone if he could drink sea water without it tasting bad to him, but it has no effect on the dehydrating effect of drinking sea water.

Q You did not use Berkatit in your experiments?

A No, we didn't have any.

Q In what form is Berkatit manufactured, is it some solid substance one eats or is it a powder applied to sea water? Just what is its form?

A I don't know.

Q Have you ever seen any Berkatit?

A No.

Q Then who told you what it was?

A That became obvious during the course of the conference.

Q Will you repeat your answer, please?

A At the conference I believe on the 15th of April or something, I believe, the conference we were talking about yesterday, where there was the discussion about Berkatit and Wolfatit, it came to light that Berkatit was recommended by the technical office and given the preference to the Wolfatit. Now, incidentally, have I ever seen any Wolfatit, but I am convinced it is a wonderful invention or discovery.

Q Well, professor, I am completely lost to understand how you can testify anything about Berkatit when you have never seen it. Up to the present time you haven't told me anything about information you have received on it, and there is nothing in the conference report which discusses the content of Berkatit and its process of manufacture or its form?

A It was said in this conference that Berkatit was simply a taste corrective, and for a doctor that is a concept of which he knows what it means, even though he hasn't seen it or tasted it or actually had it in his hands.

Q So as an expert you are willing to say that Berkatit is no

good although you can't tell the Tribunal what is in Berkatit, how it's manufactured or its form?

A Yes, that is right. In this connection I am in exactly the same position as Schaefer who immediately came to the conclusion that if it was simply a taste corrective then it was not any good for our purposes, namely to overcome or correct the dehydrating effects of sea water.

Q Well, I dare say that Dr. Schaefer has more information about Berkatit than you have; how do you reconcile the fact that Eppinger, who you recommended to this Tribunal as an expert was supporting the use of Berkatit?

A Of course Eppinger didn't think either that Berkatit removed the salt from the water in the way Wolfatit does, but he believed in the possibility that the vitamin content of Berkatit could perhaps contribute to permitting the kidneys to concentrate more salt, and the question that interested him was how long a person could drink such sea water with the taste corrected without suffering serious injury; that is what I assume without actually speaking to him.

Q But you entirely dismissed Berkatit in spite of Eppinger's opinion.

A From the very beginning I was of the opinion that for cases of sea distress, in other words to correct the dehydrating effects of sea water, Berkatit could not be used at all.

Q Now, from the notes which were submitted to you were you able to ascertain how many subjects were used in the Dechau experiments?

A I didn't bother to count them. I estimate or believe I know that there were 44 of them.

Q And could you ascertain from these records how those experimental subjects were grouped?

A Yes, I have already said that there were five groups, and I know how those five groups were treated individually.

Q How were they treated individually and how large were the

groups?

A The first group fasted and thirsted, the second group, Schaefer, the third group had sea water with Berkatit, the fourth group sea water without Berkatit, and the fifth group drank sea water straight up to 1000 cc.

Q And how many were in each group.

A I didn't count them, about six, but in one group I think there were more.

Q And were you able to ascertain from the records how much sea water the group consuming Berkatit was given, that is how much Berkatit processed sea water?

A In the Berkatit group, 500 cc of sea water were given.

Q And in what quantities were they given that?

A 500 cc in portions of 100 cc.

Q In other words, they were given 100 cc. five times during a 24 hour period, is that right?

A That is roughly it, yes.

Q And how long did that continue?

A The experiments were discontinued after six days.

Q Could you tell from the records what the reasons for interrupting the experiments was?

A I believe that fundamentally they did not wish to continue the experiments after the sixth day because from then on the symptoms became very disagreeable.

Q And how much plain sea water was given to the group that was fed only sea water?

A One group had 500 and the fifth group had 1000 cc.

Q How many experimental subjects were in each group, could you tell that?

A I believe six.

Q In other words, one group of six got 500 cc of sea water per day and another group of six got 1000 cc of sea water per day, is

that right?

A Yes, that is roughly it, but as I say I cannot swear to the exact number of experimental subjects.

Q Now, you got this information from those records and not from what Becker Freyseng and Beiglbock told you; you can tell all this from the records, is that right?

A Yes, that can be seen from the records, above all from the photostat tables of weights where the number of experimental subjects is along one edge.

Q How long did the experiments continue with the groups getting 500 cc of sea water?

A All experiments were interrupted after six days and only in one or two cases they were prolonged for a day or two if the subject had drunk fresh water.

Q And the group that got 1000 cc also lasted six days?

A Yes.

Q Did you feed any of your experimental subjects 1000 cc per day for six days?

A Not for six days. One of my subjects on the last day drank a thousand, because he thought that would in some measure quench his thirst.

Q And how many were in the group that fasted?

A Just as many.

Q And how long did they fast and thirst?

A Between four and five days.



Q. And you found nothing in these records which indicate to you that these experimental groups suffered any severe pain; is that right?

A. You cannot speak of pain in the case of these experiments, you can speak simply of discomfort, unpleasantness, bad mood attacks, a general fatigue, but severe pain is not caused by hunger or thirst or drinking sea water.

Q. How much unpleasantness and discomfort would be caused; could you tell anything about that from these reports?

A. Regarding the subjective reaction of the subjects, there was nothing to be seen in the records.

Q. The best way to find out about that would be to call in one of the experimental subjects; wouldn't it, Doctor?

A. I believe so, yes.

Q. Did you observe any different symptoms from these records as between the various groups of experimental subjects?

A. Not that I know of; certainly not from the records containing the figures from the general report, that is.

Q. In other words, the ones that were fed sea-water and Berkatit were just as well off as the group that got Welfatit; is that right?

A. No, that is a very serious mistake because the ones who received Welfatit did not have any trouble at all, they got along fine.

Q. But the others did have a little trouble?

A. A lot of trouble, they were very thirsty, very severely thirsty.

Q. As an expert, suppose you tell the Tribunal, if you can, what the symptoms would be each day in a twelve day experiment, using for one group sea water, for another group, Berkatit, for another group Welfatit and for the last group no food and no water?

A. This situation could never arise, because I would never extend a sea water experiment for twelve days unless it was with Schaefer water. I would not let a healthy person go with hunger and thirst for twelve days. The maximum you could expect of a person is six days. From the twelfth day on there is already danger of death. I therefore cannot describe what the symptoms would be on the seventh, eighth, ninth,

tenth, eleventh or twelfth day. I can say that there would be general dehydration and they would be very thirsty indeed and that they would not yet be dead on the twelfth day and that I would never undertake to carry out such an experiment myself.

Q. You cannot give us then the clinical symptoms during the days from the seventh day on?

A. I ask you if you want that information to read descriptions of persons ship-wrecked.

Q. I want to know what would happen to a man if he were fed sea-water for twelve days; yes, that is exactly what I would want to know.

A. Tell you can see that from the descriptions of people who for twelve days or more were ship-wrecked.

Q. And what did they have to say about it?

A. I cannot tell you that from my recollection. My memory is no longer as good as 50 years ago.

Q. You cannot testify about that then?

A. No, I can only imagine what it might be.

Q. I am not interested in your imagination unless it is based on some scientific observations you made, you are an expert on sea-water.

A. But I am not an expert beyond the limit when things begin to be dangerous for the life.

Q. In other words, your expertness is based on the experiments you conducted yourself?

A. I know the literature on the subject, but I cannot so reproduce it here as to be able to testify under oath regarding these matters, but on the basis of my own experiments I am in a position to say to what extent they are unpleasant or not until the sixth day.

Q. You have testified to something about the man who was at sea for seventeen days; is that right?

A. Yes, such reports are available, seventeen days, nineteen days and one group spent thirty seven days on the sea with very little water. Of this group two survived and the rest died. If you sent some literature on the subject, I can submit the biographies to you but not

from my recollection.

Q. Professor, I am interested in your knowledge on the matter. Now, let us take the case of the man who was out seventeen days; are you familiar with it?

A. I read about it, but at my age one is likely to forget things. I believe I remember he could be revived by giving him water and that very few subsequent illnesses occurred. In cases where persons are ship-wrecked for so long, it does occur that there are cases of bronchitis or pneumonia and there are symptoms of dehydration in the mucous membrane layers similar to those found in diphtheria, but these are all extreme cases at which you wonder that the person survived at all.

Q. Do you know how much water this man had who was out for seventeen days had when he first got into the boat?

A. No, I do not know, but I do know that when he was given water, after he was saved, he improved rapidly.

Q. Well, you just have a very general and hazy recollection of that case, don't you, Doctor? You know nothing about the conditions under which he survived the seventeen days, how much water he had to begin with, whether he had food, fruit juices, if any and how much salt water he drank; day by day you know nothing about the details, do you?

A. No, I am not in a position to testify about fruit juices, food and water and what not from the literature I read some time ago.

Q. Professor, you are probably familiar with the document, which I want to put to you. It is the record of the conference held on 20 May 1944. This document is KC-177, Prosecution Exhibit No. 133.

Doctor, before we turn to that document, I would like to get your reaction to a statement made by a man who was in Dechow and who had an opportunity personally to learn something about the sea-water experiments. That is the affidavit Tschefonig, Document No. 911, Prosecution Exhibit 139 on page 28, the English document book 5. Professor, Mr. Tschefonig, who was, as I say, in a position to know personally about



these experiments, states that the experimental subjects could not eat much food, that some of them had cramps and maniac attacks, that he knew that experimental subjects had hurled themselves on the floor and sucked dirty water out of rags used to mop the floor. Now, are you willing to state as an expert that these statements concerning suffering and thirst are incorrect and unreliable?

A. I don't know these statements but I consider it quite out of the question that the experimental subjects felt it necessary to drink water out of mops, because there were air raid buckets there and if they felt they needed a drink they could drink out of them. Now, insofar as the cramps are concerned, I don't believe that either. None of my subjects had cramps.

Q. Did you say something about them having difficulty eating food?

A. Yes, that is so, they lose their appetite because their mouths became so dry they all agreed that they became less and less interested in food from day to day.

Q. No cramps?

A. No.

Q. No mental disturbances?

A. No, I consider that out of the question.

Q. What physical impairments of any sort; no impairments of the eyes?

A. Physical or psychological?

Q. Physical is the question.

A. Weakness, stiffening of the muscles and certain uncertainty in movement, the hardening of the muscles and all these things I already spoke of.

Q. Now, you say there were fire buckets in the room where they were carrying out the experiments?

A. Not in the room but in front of the wash room.

Q. Was this in Dachau?

A. That is what I heard, yes.

Q. Who told you about that?



A. I believe I heard that from defense counsel.

Q. So, it is your expert judgment that it would have been quite unnecessary for the experimental subjects to suck water out of dirty mops; they could have gone out and used the water out of the fire buckets; isn't it?

A. No, those who cheated did not take as much trouble as that.

Q. In other words, if they wanted to withdraw from the experiments, they could do so and drink all the water that they wanted to; that is your expert judgment on this experiment, is it Doctor?

A. No, of course it was made more difficult than that for them, but people like that will of course find a way out somehow and the supervisors are generally speaking are at least 50% on the other side, so that one can never be quite sure there.

Q. People like what, Professor?

A. The assistants who were present there. I think some of them were interrogated. Two young people I think were there, some helpers or some laboratory assistants.

Q. I think I understand you to say that people like that always found it possible to cheat or words to that effect; I want to know what you mean by the reference to "people like that." What were these experimental subjects like, Doctor, in your expert opinion?

A. That I don't know. I would have to read that in the reports. I would have to have it checked on the spot from people who were there. I am speaking generally. When you have 44 people whom you use in experiments, then there is a certain number of people there who supervise and then one isn't quite certain of one's results either. I am just saying that in order to illustrate that in this particular case it has happened and could have happened that experimental subjects actually obtained drinking water.

Q. Let's go to Document No. 177, Prosecution Exhibit 133, which you have before you. As I recall your testimony earlier, you said that you assumed that these experiments were carried out as planned. I put it to you, doctor, that this conference gives us pretty definitely what the plans were. You find the paragraph at the bottom of the first page where it reads:

"At this meeting Captain Dr. Becker-Freysang reported on the clinical experiments conducted by Colonel Dr. von Sirany, and came to the final conclusion that he did not consider them as being unobjectionable and conclusive enough for a final decision. The Chief of the Medical Service of the Luftwaffe" -- strike that, Luftwaffe is not in here -- "is convinced that if the Berka method is used damage to health has to be expected not later than six days after taking Berkatit, which damage will result in permanent injuries to health and - according to the opinion of Dr. Schaeffer - will finally result in death after not later than twelve days."

Professor, in your expert opinion is that a correct statement of what is likely to occur if Berkatit is used?

A. That most probably is a correct statement.

Q. In other words, if you use it six days, you can expect permanent injury?

A. Oh no, I haven't finished. It is correct to assume that after consuming Berkatit injuries may be expected after six days, but permanent injuries to the health of the subject I would not speak about.

after twelve days have passed, and even then I have my doubts. If you carry out a sea water experiment or if you have been shipwrecked for twelve days, then I am convinced that the patient would recover without permanent injury, if you succeed in getting him over the difficult initial period of drying out.

Q. Well then, you don't think this is right as you testified earlier, you think it is wrong?

A. That is too strong an expression. After six days you may expect injury to the health, but I don't believe that they are permanent injuries.

Q. Then you wouldn't expect permanent injuries even after twelve days, I understood you to say?

A. I consider that it is possible that even after twelve days, provided the danger point has been passed, no permanent injuries will result.

Q. Well, Professor, of course there are a great number of things that are possible, but as an expert I would prefer you would testify with respect to probability rather than possibility. Now, is it probable that there would be permanent injury after twelve days?

A. Have him repeat that question, please?

(Question is repeated)

No, it is probable. I have said that if a person has lived through those twelve days and if you have succeeded in getting him past the first danger point then it is most probable that he will not suffer any permanent injury to his health.

Q. Is it probable that he will live to the twelfth day?

A. That depends on whether he has no water at his disposal, whether it has been raining, whether he has been able to collect melted snow, whether he has drunk a lot or little sea water. The possibility is very great for a real shipwrecked person to survive twelve days and in an experiment, if he hasn't been drinking more than 500 cubic centimeters of sea water for twelve days, he will probably still be alive



and emerge healthy and without injury.

Q. Let's get this very clear, Professor. We are not talking about shipwrecked sailors now who have the benefit of rain periodically. We are talking about the experiments which were the subject of this conference. As I understand it, it was the opinion of Schroeder's office and Schaeffer that death would probably ensue after twelve days. You disagree with that, is that right? You think it is probable that one would survive for twelve days?

A. I consider it possible but as I also said previously during my testimony that beginning with the twelfth day danger to life exists indubitably.

Q. But probably he would live to the twelfth day, is that right?

A. I can't give you the probability factors of that. I said it is possible that he will survive.

Q. Professor, let's continue at the top of page 2 where it says, "External symptoms are to be expected, such as drainage, diarrhea, convulsions, hallucinations, and finally death." You disagree with that too, don't you?

A. That again depends. That isn't said with reference to a special arrangement for experiments but quite generally. It is generally the development of a shipwrecked case, or in this case on the other hand it says after six days injury to health and thereafter diarrhea. That, according to our experience, is improbable. Convulsions - well, we haven't observed any; hallucinations - that might happen on the tenth day and if a patient dies on the twelfth day then it is quite possible that days beforehand he has had hallucinations.

Q. But you don't agree that the man gets diarrhea? As I recall, you testified to the contrary, that taking sea water causes constipation, is that right?

A. Our experimental subjects, since they never drank all of the sea water in one dose, all got constipated due to the dehydration of the body.



Q. Well, let's continue toward the top of page 2 and see what experiments were planned, Professor, and get your expert judgment about them. The first series is one group of persons to be given sea water processed with Berka; one group to be given ordinary drinking water; persons without any drinking water at all; persons, given to drink according to the present method. Those experiments were to last six days, is that right?

A. Yes.

Q. In your opinion would those experiments give any discomfort?

A. No.

Q. And no injury?

A. No.

Q. Psychological disturbance?

A. That not either, certainly not during six days.

Q. Now, that planning, the second group of experiments, Professor, "persons nourished with sea water and Berkatit, and as diet also the emergency sea rations; duration of experiments: 12 days. Since in the opinion of the Chief of the Medical Service permanent injuries to health, that is, the death of the experimental subjects has to be expected, as experimental subjects such persons should be used as will be put at the disposal by the Reichsfuehrer SS."

Doctor, assuming that the twelve day experiment was carried out, do you still maintain that it is probable there would have been no death and that it is probable that there would have been no permanent injury?

A. Fortunately, such an experiment was refrained from, because that would have got pretty near the dividing line towards endangering life and fortunately the experiment was not extended beyond the sixth day.

DR. MARK: Mr. President, as defense counsel for the defendants Becker-Freyseng and Professor Schroeder I wish to object to the way in which this document is being made the subject of cross examination by the prosecution. First of all this record is being contested by both the

defendants and the defense, the reason being that the affidavit of the man Christensen shows clearly that there is no question of there being an authentic record of the meeting which took place at that time, but only a few days later a man by the name of Schickler, who was neither qualified nor entitled to make it, prepared a record from his memory, and he was definitely not a medical man, he was a technician, and what is more he was a prejudiced author of this record, and what is more, one must consider that here we are not concerned with the planning of experiments which would make any claim towards real existence. It is proved beyond doubt that only when Professor Eppinger and Heubner were there were these experiments planned and that these matters are false and if Professor Vollhardt is to define his attitude at all then we could only be concerned with a hypothesis. In other words, one might say that, assuming this record here does correspond with the truth, which on the other hand we deny, then it could be so, but not as if we were concerned here with a true record of the outcome of that conference, and that in fact no planning for an experiment was carried out at the time, and, therefore, I object to this type of cross examination and I maintain my objection to the record as such in its entirety.

THE PRESIDENT: The witness has testified as an expert witness called by the defense. He is now undergoing cross examination. The rules of cross examination are liberal and Prosecution is entitled to test his knowledge of these matters and had not exceeded the proper bounds so far. Counsel may proceed.

DR. HARRY: Mr. President, may I say one more word. There is the additional point that the minutes precisely state under II that the Commission, and this is at the bottom of page 3 of the German text, the Commission for the planning for the conditions of the experiments to be carried out is composed as follows:

Professor Eppinger from Vienna, then a representative of the Hygiene Department, a representative of the Air Force, a representative of the German Air Ministry, and a representative of the OKM, the high command of the Navy. So, the commission who was to draft the plans for these experiments was only being made up—it hadn't met, but was only to be constituted during a further meeting and then draft plans for the experiments. Thus, in this most relevant point this record is false and therefore the assumption is justified that the record was not prepared on the 23 May but even later after the 25th of May. Christensen, you see, upon my questioning, answered me that it was even possible that it was after the 25th May that this record was prepared and it probably has been ante-dated. For that reason alone, when you read that particular passage, it is quite unnecessary to state that there were no details, that the commission was only being formed and then during a later meeting was to make the plans to be carried out. Consequently, I beg you to take this into consideration and to have further examination of this witness refused.

DR. STEINBAUER FOR BEIGLBOMER: I also object to the type of cross examination carried out by Prosecution, but my reasons are different—they are of a formal nature. It is not proper that an expert witness should be shown a document that a sentence should be



torn from its context- without telling him what we are concerned with and without giving the witness ample opportunity to peruse the entire document-to peruse the entire document in his own time and then he would know what is going on. In order to prove this I would like to point out how Prosecution quoted from Teschofnig's interrogation saying that Teschofnig had experienced all that but in the middle of the second page- the witness is saying "due to my position as responsible prisoner for the X-ray station of the camp hospital insight in the experiments." Which could have been only a superficial one. Thus, the assertion that this witness was informed in detail is contradictory to facts before this Tribunal.

THE PRESIDENT: When the witness is being cross examined in connection with any certain document the witness may see, examine, and read that document in full if he desires. Otherwise the cross examination may proceed. Objection is over-ruled.

BY MR. McHANEY: Witness, I am not asking you to argue whether this experiment of 12 days as outlined here was carried out, but I understand you are an unbiased expert on sea-water problems, testifying in an un-biased manner, I am asking you to assume that this experiment was carried out and, as it states, it was to last 12 days, and the sole source of water was to be sea water and Berkatit, and I put the question to you as an expert-what in your judgment would have happened to the experimental subjects? Can you answer that?

A. Yes. Without a doubt the experimental person would have managed to get hold of water some way or other, because even the most enthusiastic volunteer wouldn't continue that long.

Q. Doctor, let's assume that he had no recourse, no access to other water, he was put in a cell, where there was no other water. He had to drink sea water. He had to drink Berkatit. That is all he got and that went on for 12 days. Now, as an expert, what probably would have happened to the experimental subject?



A. After 12 days he would have shrunk considerably and all sorts of symptoms would have become apparent. I can imagine there would have been hallucinations and physical weakness, hardening of the muscles, and so on. But, if a person were able to concentrate he had a chance to survive those 12 days.

Q. Is it probable that the experimental subjects would have died?

A. I wouldn't describe it as being a probability but as being a possibility.

Q. Would you describe it as being probable that the experimental subjects would have survived?

A. That I consider very possible.

Q. Well, is there any probability in here anywhere or just possibilities?

A. In biology you cannot figure out forecass. Much depends on the type of person you are concerned with, how his condition is how he can generally react. One can say generally that danger to life commences after 12 days, one can assume that after 12 days he is still alive.

Q. And it is probable that if he survives, as you state is very possible, is it probable that he would have suffered any permanent damage?

A. No, that is improbable that he would suffer permanent injury.

Q. Professor, can one kill a person by making him drink sea water as his sole source of water supply?

A. Yes, of course you can kill anyone if you only give him sea water to drink permanently. No human being can stand up under that, he dries out.

Q. And, as an expert, what is your best estimate as to how long that would take?

A. As I have just said danger to life commences after 12 days. That is a general estimate.

Q. That is the best testimony you can give in response to that

question? He is given only sea water, that is his sole source of water. You can't say anything more definite than around the 12th day it becomes quite dangerous to his life?

A. Yes, I can say that on the 12th day there is danger to his life.

Q. Were you in court yesterday?

A. Yes.

Q. Prosecution would call to the Tribunal's attention rule No. 9 B of the rules issued by this Tribunal, which requires that witnesses be excluded from court prior to their testimony. We call that to the Tribunal's attention for what ever weight they might wish to give it. We make no motions because that rule was violated in this instance.

DR. TIPP: Mr. President, this justified objection by Prosecution can be clarified easily. Mr. McHoney doesn't know this fact that we asked the Tribunal in writing to allow Professor Vollhardt as an expert witness to permit him as an exception to be in court during the examination of Becker-Freyseng, Schaefer, and Beiglboeck. This request by defense was granted in writing by this High Tribunal. Possibly that decision of the Tribunal has not come to Mr. McHoney's knowledge.

Mr. McHoney: I have no further questions.

BY JUDGE SEGRING:

Q. Doctor, can you state for the information of the Tribunal whether so far as you know there is any food value in the preparation Berkatit?

A. A n actual nourishing value is not contained in Berkatit as far as I know about its composition. I believe that initially it was made of tomatoes and then later on other types of sugar were used, but I don't think this was of any actual nourishing value.

Q. If it should appear that there is some food value or nour-

isment value in the preparation then would it not be true that over an extended period of time the experimental subject who was taking Berkatit would be placed in the same position as would an experimental subject who was given food but deprived of all forms of water?

A. If Berkatit even did have one to 2 calories then it wouldn't play any part at all since that would be without any inference upon the dangerous quality of sea water which is its dehydrating quality. I would never never dare to continue a sea water experiment with Berkatit longer than a sea water experiment without Berkatit. That is, to say, not beyond six days.

BY THE PRESIDENT:

Q. Professor, these subjects upon whom you conducted an experiment in your institute were very excellent subjects for such an experiment were they not?

A. They were characterized by the fact that they were medical men who understood the meaning and that I could rely on them. Physically, they certainly were no better-conditioned, according to the photographs at least, than those rather well nourished experimental subjects.

Q. I was not thinking so much of their physical condition, but they were men who were interested in this work, were they not?

A. Yes.

Q. The results of the experiment - each upon himself and upon each of his associates - would be interesting to each one, would it not? Is that not true?

A. I would assume so, yes.

Q. Each one was entirely controlling his own participation in the experiment, was he not?

A. Yes.

Q. If, at any time, any one of the subjects felt that the conditions which he was undergoing in the experiment were becoming too heavy for him, he would have been released from further participation upon his request, would he not?

A. No doubt he would have reported and he would have said "I want to step out. This is too bad for me."

Q. That's what I meant. He would have asked to be released and he would have been immediately released? Well, is it or is it not a fact that a human being will voluntarily undergo hunger, thirst, pain, discomfort, and stand it better when he knows that he is doing it under his own volition with a scientific objective, than a person of



equal physical condition will stand such an experiment when, insofar as he is concerned, he has no personal interest whatsoever?

A. No doubt that is correct and I am perfectly convinced that Professor Eppinger tried everything he could in order to obtain such volunteers. He was most discomforted through the fact that these experiments were carried out in Dachau. He would much rather have seen them carried out in Vienna on his own scholars or students but, at that time, there weren't any students any more. They had all been called up, and medical officers were very scarce so that there was no question of obtaining volunteers. Hence, in this very tense and difficult time, no subjects could be found to carry out such a series of experiments as was planned here in a hospital or clinic or any kind. It would have been better, more practical and more sensible, by all means, if the experiments had been carried out at that time upon medical students, but, unfortunately, that was impossible.

Q. You prefaced your statement, Doctor, by saying that Dr. Eppinger had this sentiment. How do you know that?

A. Because, during the conference, it was mostly Prof. Eppinger who was in favor of these experiments being made and, since Professor Eppinger had earmarked his favorite pupil Beiglboeck, for the carrying out of these experiments, it is a matter of course that Eppinger would have liked nothing better than that these experiments had been carried out under his own control in Vienna.

Q. You are assuming that Eppinger would have felt as you would have felt under similar circumstances, is that correct?

A. I know that all those who were interested in these experiments were making efforts to find places where these

experiments could be carried out in a military hospital on soldiers or convalescent patients or other persons, but, unfortunately, everything turned out to be impossible. You can only imagine the situation if you know how every hospital bed and every doctor was being utilized in this time. That was the final period of the war.

Q. You prefaced this last statement by saying "I know". Now, how do you know? By any other method than assuming that these gentlemen would have felt as you felt?

A. No, I recollect that I have read that in one of the reports, that one had tried to carry out the experiments elsewhere and that one had come across locked doors everywhere. For instance, one had Brunswick in mind, I know that accidentally, the Air hospital at Brunswick, and that was impossible. Thus, all inquiries had negative answers.

Q. I gathered from your answer to one of my questions a short time ago....I would like to return to that subject .....that a person of intelligence will endure more discomfort, pain and suffering, pursuing a voluntary experiment which he knows he can terminate at any moment than a person, probably of less intelligence, would display upon undergoing an experiment which he could not stop at his own volition. Is that correct?

A. Well, there isn't any question that, for those persons in Dachau, the only bait was the good food before and afterwards and the cigarettes that they had been promised. That wasn't possible in the case of my doctors. They did it because they were interested and, of course, that would have been by far the most preferred solution if it had been possible.

Q. And, insofar as the subjects at Dachau, if any of them, at any time during the course of the experiments, believed

that the pain or discomfort or whatever it might be called, which they were suffering would not be compensated by cigarettes or other promises which had been made to them, that they would be very anxious then to be released from prosecution of that experiment. Is that true?

A. Certainly. That's why quite a number of experimental subjects secretly drank water, because the strict pursuance didn't please them too much.

Q. Well, unlike the experimental subjects in your institute, those subjects would not be particularly interested in the result, would they? They had no scientific interest in the result, did they?

A. No, no. None at all. None whatever.

THE PRESIDENT: Are there any further questions to the witness.

BY DR. TIPP (Defense counsel for the defendant Becker-Freyseng:)

Q. Professor, the statements made by the prosecutor during the cross-examination unfortunately necessitate certain clarifications.

First of all, might I ask you one thing? In your direct examination you have, of course, emphasized the purpose of these experiments. Now, would you finally say just once again what was to be achieved by means of these experiments carried out at Dachau?

A. The situation was the following: After Schaefer had developed the idea of his excellent drug, the question of sea water was solved. Unfortunately, Mr. Berka arrived with his taste corrector and, because of very superficial experiments carried out by Colonel Sirany, the Technical Department spoke in favor of this drug which, from the medical point of view was not suitable because the



dehydrating effect of sea water was not being eliminated by it. Thus, a conflict arose between medicine and technique, and the technicians had the greater force. They had to grant the funds and they said "The raw materials for Wofatit were too difficult to obtain. It is easier for us to manufacture the Berka affair." Consequently, this meeting came about during which the two leading experts spoke in favor of carrying out these experiments although every one of them knew that Wofatit, of course, could not be beaten. But it might have been that Berkatit too had a certain advantage over ordinary sea water and, as I have said, Eppinger was thinking of the possibilities that the concentrating powers of the kidneys might somehow be increased. However, the experiments didn't give a definite supportive evidence of that, but they did have an important result - not only the obvious result, namely, that the Schaefer water was superior to anything else - but, also, the observation that the kidney can, nevertheless, concentrate salt so astonishingly well up to the concentration of sea water that, in future, one could give the advice that in cases of sea distress, instead of being completely thirsty, one could rather, drink 500 cc of sea water and, in that manner, increase the salt contents of the blood but would not have to be afraid of dehydration quite so quickly.

Q. Well then, Professor, if I understood you correctly, it was the aim of the experiment to establish whether Berkatit, after all - probably in practical cases of sea distress - ought not to be introduced? Is that correct so far?

A. Yes, that is quite correct, since the aviator wouldn't be quite so burdened by it as by Wofatit.



Q. Then may I put another question to you?

According to what you have said, these experiments actually materialized since the technicians had the stronger influence, as you put it, and since they were being supported by Professor Eppinger and Professor Haubner?

A. In not quite that sense. That possibly they might have gone over to the technicians' side, but they did consider it appropriate not to deprive Berkatit of all its useful purposes.

Q. Well, then, if it hadn't been decided, during that meeting, to carry out experiments - of course, this is a purely hypothetical question, Professor - what could you say on the basis of the details? What would have happened? Would Wofatit or Berkatit have been introduced in practice?

A. I'm afraid the technicians would have been victorious. They would have been victorious over decency.

Q. So you mean that, without these experiments, berkcatit would, nevertheless, have been introduced in practice?

A. Yes, I believe so.

Q. And you went on to say, Professor, that the admixture of water with Berkatit, which is equal to sea water, would have done serious injury in practice and, provided it went on over six days, would lead to death?

A. It would have serious consequences after going on for over six days and would most certainly lead to death after.....

Q. And you are making these conclusions on the basis of final cases of shipwreck?

A. Yes.

Q. Then, may I put the final question. In this connection, the Chief of the Medical Department, General Martius, and his assistant, Becker-Freyseng, would have been actually irresponsible if this development had been used without the action being taken? In fact the only possibility for preventing the introduction of Berkatit was to achieve that experiments were carried out?

A. It appears that it seemed to be the opinion among responsible persons that, considering the increase in air crashes, one ought to deal rapidly with the question of shipwrecked personnel and achieve the solution.

THE PRESIDENT: Counsel, I must again ask you to proceed a little more slowly. It is rather difficult for the reporters to follow. Ask your questions a little more slowly and the witness will not answer the question until the interpreter is finished with the translation of the question.

Court No. 1

Q. Professor, you just said that it was the aim of the expert to clarify whether Berkatit might not possibly after all be introducable, consequently what was further aim, supposedly it was to find out how long Berkatit can be tolerated during the experiment?

A. How long sea water with or without Berkatit can be tolerated.

Q. In this connection, Professor, I might ask you, have you got the sea water document book before you? I will have it sent over to you. May I ask you, Professor, to turn to Document 177, Exhibit 133, which is the minutes of the conference, the one Mr. McHaney had out to you, it is page 12 of the document book; do you have it?

A. Yes.

Q. There is one question I want to put to you with reference to that present test. At the bottom of page 1 of that document you will find the description at the end of the lecture made by Dr. Becker-Freyseng, and it here says that the Chief of the Medical services is convinced that if the Berkatit method is used, damage to health is to be expected not later than six days after taking Berkatit, and will lead to death not later than 12 days after; Professor, according to the underlying idea of the experiments which you have displayed I should like to ask you: to what did your statement refer? to the experiments or to the case of an actual ship-wrecked person.

A. I would assume that this applied to the practical case of an actually ship-wrecked person, since at that stage there had been no talk of experiments. They were only really noticeable in this expostulous report.

Court 1

Q. We will come to that, Professor, but in the same document the Prosecution pointed out the supposed planning of experiments such as contained herein and on page 2 of the document under Figure 2 he talked about the so-called duration of experiments of 12 days with Berkatit; first of all I would like to ask you, Professor, to look at page 3 of the same document and particularly the end of that page, and it says there, "The Commission for the determination of conditions for the experiments to be carried out is composed as follows: Professor Eppinger of Vienna, representative of the Chief of the Medical Service of the Air Force, representative of the German Air Ministry (RLM), representative of the High Command of the Navy (OKM)."

If you look at that page, Professor, and then consider the series of experiments which supposedly had been discussed during the conference of the 20th, can you then imagine that during that meeting of the 20th experiments had been decided upon as according to this record, whereas as we have just read the commission only met later, namely on the 25th?

A. The whole picture is that as painted by the layman. No medical man would have written that page, -- you can see from the report that it was glued together, and I can assure you that according to my knowledge that humane person as Professor Schaefer, would never have given his consent to a duration of 12 days with sea water.

Q. May I just ask you a final question, Professor --

THE PRESIDENT: You are still continuing too fast, Counsel.



Court 1

DR. TIPP: Yes, Mr. President.

Q. Then may I put the final question to you, Professor, do you consider it probable considering the aim of the experiments to have mentioned that a duration of 12 days would make sense at all?

A. It would be quite senseless, absolutely senseless.

DR. TIPP: In that case I haven't any further questions on this particular point. I beg your pardon, yes, I do. I have one more final question.

Q. As you stated, you yourself have seen the original records of these experiments, would these records show anything to the effect that during the actual experiments any type of torture was committed or that any incidents occurred which could be described as crimes against humanity?

A. I haven't found anything like that at all, and what is more I consider it absolutely out of the question. The duration of the experiment is too short. During the six days it is humanly no possible that any tortures could be connected with it that you could describe as inhumane.

Q. And that the experiments didn't last beyond six days that is something which became abundantly clear from the records?

A. Yes.

DR. TIPP: Thank you very much. No further questions.

DR. STEINBAUER: Steinbauer for the defendant Biegel-book.

BY DR. STEINBAUER:

Q. Professor, since the prosecution <sup>has</sup> not stepped down I must ask you some more questions; you have been shown photographs, some of which of course, after considerable conferences with medical offices, will be chosen by

Court 1

me and shown to the Tribunal; is it your impression that these people, - as a witness maintained with reference to the transport from Weimar to Munich, - would not have survived such a transport?

A. No, this is not my impression and all you would have to do is look at the trains and circumstances under which people travel from Munich to Frankfurt today.

Q. We could have put these photographs together so they would have been favorable to the Prosecution as well as to ourselves; the Prosecution told you to look at Figure

5. Now let me put a question, you look at that photo and tell me; is there not a possibility that there would be distortion and that the face would show pain when people are given an injection?

A. Yes, that is plain and most people contort their faces during the actual injection and show that contortion more quickly even before the injection takes place.

Q. Then look at the picture and I ask you this question is it not a technical fact that in hypertonic solutions just as well as in thirast it is the lack of water, and that this question of water shortage is the decisive question medically speaking in connection with that question?

A. I thought I had unmistakably said that sea water endangered the life because it drains water from the system of the body. It is a condition of dehydration which arises because of salt and this salt produces dehydration without salt.

Q. That fights the expression in the face.

A. Not quite. I told you my son had quite an emaciated face after the sea water experiment, so that everybody got a big shock. But after 24 hours that disappeared.

Court 1

Q. The Prosecution first of all made the gypsies die of whom I told you in Frankfurt, and now they would like to revive them and therefore they want their names; could you have given your expert opinion, Professor, if you had no name, would it have altered it in any way?

A. I wouldn't have looked for the names. They are quite immaterial to me.

Q. So to you as a medical man the only decisive factor is what these charts will show to you?

A. But of course.

Q. Consequently, you also heard from me that we were concerned with volunteers?

A. Yes.

Q. Might Dr. Marx have given you any more details than we?

A. No, no.

DR. STEINBAUER: Thank you. I have no further questions.

THE PRESIDENT: Does the Prosecution desire to cross-examine this witness upon the questions brought out?

MR. McHANEY: The Tribunal, please, we have no further questions. However, either after the witness is excused or right now I would like to bring up the questions of the names of these experimental subjects, the Prosecution has been put in somewhat of an embarrassing position because the witness has testified all day long about documents which are not a part of the record. On the motion of the Prosecution yesterday the Tribunal, as I understood it, required the production of the documents about which this witness would pass his opinion on, whereupon some purported original drafts were produced, on approximately half of which pencilled names had been erased, by whom or when the Prosecution does not



Court 1

know. Today some original documents were produced half of which were removed from one cover and inserted in a second book here. I am advised and believe that the first book at one time contained the names of the experimental subjects. I think that it is only proper that the defense counsel be required to produce the original documents and original form without any deletions or changes whatsoever; that moreover the defense counsel be required to produce immediately the names of the experimental subjects which they have and they be furnished to the Prosecution. We can go to considerable trouble, I suppose, and by use of an infra-red machine have the names raised which have been erased from the original documents. However, we don't care to go to that trouble if we can avoid it. I also don't wish to pursue this matter too far, but we understand that the defense has these names and I think they are required to produce them. I might also add that the photographs of the experimental subjects which were also submitted to this expert and formed a part of his opinion were submitted to you as photostat copies, and show nothing but the cover of the picture. The Prosecution would also be interested in knowing what appears on the back of the original pictures.



DR. STEINBAUER : Your Honors, it is very regrettable that the expert had to be heard before my case came up, since he wanted to depart. All the agitation of the Prosecution then would have been superfluous.

You can rest assured that I would not have felt so safe if I had not shown the list to Professor Alexander. It was not too clever of him not to copy the list as he had it. It is my privilege as defense counsel to decide whether I shall submit it or not, but I am not going to have the Prosecution force me to do so. But, in order to express my respect for this Tribunal, I shall do so at the point when it is most beneficial to the defense of my client. When everything has been cleared up, then the list that the expert did not have and which did not have any basis for his expert opinion will be submitted. I am afraid that these gentlemen will have to be patient until to-morrow, then they will see and hear everything that they want to see and hear today.

MR. McHANEY : The prosecution has no control whatsoever on the way in which the defense puts in his case, but I think we are entitled to have the records on which the expert based his opinion. We have not received the original of the documents which contained the list of the experimental subjects. While certainly it is Dr. Steinbauer's privilege to put in his case any way he sees fit, when original documents are submitted, they should be submitted in their original form without changes or deletions on same. We request original or photostatic copies. We make available our records to him when they go in and we have gone to considerable trouble on several occasions to have original documents, Karl Brandt's for example.

Now, it is his right to put in his evidence as he wills but there also exists the right of this Tribunal to require the presentation of evidence which is known to be in the possession of any one. Just as defense counsel frequently asked the Tribunal and the Prosecution to submit particular documents which they know we had.

I don't want to be disagreeable about any of this. We tried now for two days to get the names and have not been successful. It is no pleasure for me to be put in this position.

THE PRESIDENT : The witness who testified today was called out of order for his apparent necessity of being in Nurnberg. During his examination he was shown documents to which reference was made, he was also permitted to testify concerning the documents even though they were not presented in evidence. When they are offered in evidence on behalf of the defendant if they appear in mutilated form or are not complete, they should then be objected to and if they are not submitted in evidence, then this testimony given this afternoon would not be considered by the Tribunal.

If the Prosecution wants to be furnished with any of the documents, I suggest that the prosecution make written application to the Tribunal, stating just what is desired, hand it to the Tribunal and the Tribunal will rule on it.

The Tribunal will be in recess until 9:30 tomorrow morning.

(The Tribunal adjourned at 1535 Hours until 09:30 Hours  
4 June 1947.)

Official Transcript of the American Military Tribunal  
in the matter of the United States of America against  
Karl Brandt, et al, defendants, sitting at Nurnberg,  
Germany, on 4 June 1947, 0930, Justice Beals presiding.

THE MARSHAL: Persons in the courtroom will please find their  
seats.

Military Tribunal I is now in session. God save the United States  
of America and this honorable Tribunal. There will be order in the  
court.

THE PRESIDENT: Mr. Marshal, have you ascertained if the defend-  
ants are all present in court?

THE MARSHAL: May it please your Honor, all the defendants are  
present in the court.

THE PRESIDENT: The Secretary-General will show for the record  
that the defendants are all present in court.

The record will also show that the witness, Franz Vollhardt, was  
excused from further attendance before the Tribunal last evening, his  
testimony having been closed. With the defendant, Conrad Schaefer, on  
the stand counsel may proceed. The witness is reminded he is still  
under oath.

DR. KONRAD SCHAEFER - Resumed

DIRECT EXAMINATION (Continued)

BY DR. PELCKMANN:

Q Dr. Schaefer, the day before yesterday we were discussing  
whether it could be attributed to you that in the last conference on  
25th May 1944 you actually could have done more than you did. Let me  
ask you now, what else could you have done to prevent the experiments  
from being carried out, whether they were to be carried out on concen-  
tration inmates or inmates of the Luftwaffe Hospital in Brunswick.

A I could have done nothing else because the chain of command  
would have been the same; namely, through Dr. Becker-Freyseng, Dr. Mertz,

department chief, and then Dr. Kahnt, chief of staff, and, finally, Professor Schroeder himself. Dr. Becker-Freyseng and Dr. Mertz were themselves present at this conference and took part in it all together. I could not have made recommendations to Dr. Schroeder directly because I should have had to have the permission of the department chief to do so. Moreover, Dr. Schroeder testified here that he would not allow himself to be influenced in any way in his decisions.

Q It is your opinion then, Dr. Schaefer, that if you had expressed your misgivings to Dr. Mertz, Dr. Mertz would have said to you: "This is completely unnecessary. I know all about this. I myself was at the conference and you know that I approved all these matters."

A Quite so.

Q And for this reason Dr. Mertz would continue, "I cannot have a report on this matter submitted to my superior, Dr. Schroeder."

A Quite so.



Q I should like to turn now to Document 35. This is to receive Exhibit #39. It's on page 119 of the second Document book. I should like to have it put to you. Kindly read it aloud, Doctor Schaefer.

A I quote:

"The substance sent in...."

Q (Interrupting) Dr. Schaefer, please reading the heading also.

A This is a letter from Dr. Schuster when I had asked to test Berkatit in its capacity to retain sodium chloride.

Q It was said that the salt in the body was assisted in its passage through the body by the ingestion of Berkatit. In chemical terms this is to say that Berkatit formed a compound with the salt and thus salt in sea water was carried through the body in this compound without doing any injury to the body. Was that so?

A Yes, that was Berke's theory?

Q And you opposed this theory?

A Yes.

Q You, in other words, wanted to prove that this salt from sea water formed no compound with Berkatit?

A That is so.

Q And you commissioned Dr. Schuster to investigate this matter and what was he to investigate?

A He was to prove that the salt entered into no compound with Berkatit and that no compound was formed.

Q And when did you give this assignment to Dr. Schuster?

A Roughly, the 20th of May. And this is the answer to it, of 1 June 1944. I believe it is necessary for me only to read the last sentence:

"The slight alteration of the specific resistance is due presumably to the increase in the number of molecules in the solution. No complex fixation therefore took place."

Q Dr. Schaefer, I am having this read aloud only in order to ask you whether, after the 25th of May, when you saw all you hope of prevent-

ing these experiments coming to naught, you still did something further in this matter?

A I forwarded this letter to the Medical Inspectorate. That was all.

Q This letter does prove that your opinions were correct in this matter?

A Yes, it does.

Q After the conference of the 25th of May did you speak to Dr. Becker-Freyseng again?

A Yes, a few weeks thereafter.

Q What was said?

A I asked him what had come of this matter. He told me he didn't know either. Apparently the whole matter was simply being dropped.

Q At that stage that seems to have been a correct opinion because, as we know from the document books of the prosecution, no decision was reached in the matter at this time. I have already proved that Dr. Schaefer had nothing to do with ordering experiments either with Berkatit or Wofatit. I should now like to put in Document 36. This will be Exhibit 40. Page 120. This is an affidavit by Karl Theodor Leese. He says the following. I shall read the first paragraph.

"When, in the summer of 1941, I reported to Dr. Beiglboeck, I was informed that two methods for making salt-water potable were to be tested, and that I was to carry out part of the chemical research work in the laboratory. I was informed about the effects of the effects of the Schaefer method. The Berke method was a secret process and was not revealed even later."

I shall now read the third paragraph from the end:

"The course of the experiments showed no symptoms of illness due to salt water made potable according to Schaefer's method."

And the last sentence:

"Dr. Schaefer was not present at these tests. I am unaware of any suggestions made by him."

This document further corroborates that Schaefer himself did not take part in the experiments and that the experiments with Wofatit produced no pathological symptoms.

Now, I must discuss a document put in by the prosecution. This is the affidavit of Dr. Schaefer himself, NO. 474, Exhibit 131, Document Book 5, page 6. I must go into this document because the prosecution asserted in the session of the 16th of December that this affidavit shows perfectly clearly Schaefer's full knowledge of these matters and shows what part he took in every conference that took place.

Dr. Schaefer, because the prosecution has put this document in as one that incriminates you, I must ask you, first of all, in general do you construe this document as an incrimination of yourself and as indication that you bear responsibility for the experiments that then took place in Dachau? And would you like to assert the same now regarding the other co-defendants?

A No, not at all.

Q Is it not so that, on the contrary, when you interrogated you described how it was that precisely you were not responsible for the experiments?

A Yes.

Q Dr. Schaefer, if you say that, however, I must look into why that opinion of yours is not set forth in this affidavit of yours. We must go through this affidavit point by point. You have the document before you?

A Yes, I do.

Q Let us first take #3. It says here:

"In May, 1944, I was ordered by the office of the Chief of the Medical Service of the Luftwaffe to attend a meeting called for the purpose of consisting further research on making sea water potable."

Is this statement correct?

A I should say that it is badly formulated. No new research was to be considered. It was simply to be decided whether Berkett or Wofett was to be the preparation introduced.

Q If I understand correctly, the idea of carrying on further experiments was discussed by other participants in the conference, not by you, during the course of the conference. Is that correct?

A Yes.

Q Then it states further. I skip one sentence, or rather I don't skip a sentence:

"Present were Becker-Freysang, Research Advisor to Schroeder...."

Now, is that designation correct?

A In view of what I have heard here, it does not appear to be correct. At any rate, it can lead to confusion with the so-called "consultants."

Q Now, I'll take the next sentence:

"It was decided at this meeting to conduct experiments on concentration camp inmates with the Berka process although it was generally admitted that the Berka sea water process seriously impairs the health after six days and causes death after twelve days at the latest."

Dr. Schaefer, what do you understand, first of all, under the phrase "it was decided"? Was a decision reached on this matter? Was there a vote on it?

A No, there was no vote on it.

Q Then, how should it be phrased here in this affidavit?

A It should say that one of the participants in the conference made the proposal.

Q Well, but that doesn't decide anything.

A No, and that's what I said during my interrogation. That one of the persons attending made the proposal, and then I was told: "Very well. We'll write the proposal was made and adopted without a vote."



4 June 47 M.F.C. 2-5-Karrow (Int., Brown)  
Court I

But that seems to me to be even less correct and, moreover, the word  
"decided" did not incriminate me in any way because it all depends  
upon who was in a position to make decisions.

Q In other words the word "decided" does not incriminate you because it depends on who had a right to vote?

A Yes, that is so.

Q Did you have the right to vote, and did you tell the interrogator?

A Yes, and the interrogator told me that would be decided by an expert of the Luftwaffe organization.

Q Now it says further, "Although it was generally admitted that the Berkatit seawater process, although it was generally admitted that the Berkatit seawater process seriously impairs the health?" Did you state it so during your interrogation?

A Yes, but that does not refer to an experiment but to practical cases of sea distress.

Q Yes, and it is for that reason I ask you if you chose this form during your interrogation yourself?

A No, that formulation was presented to me in its final form.

Q In that case you must explain some greater length how it happened that this formulation was chosen; it couldn't have been chosen unless there had been some discussion with you before hand?

A I was shown Document NO 177 and since I had only the vaguest sort of recollection of the whole matter I based what I said on what was in this document NO 177.

Q How often were you interrogated, Dr. Schaefer, in how many sessions was this affidavit drawn up; please describe that in greater length?

A I was interrogated two or three times and on the basis of these interrogations this affidavit was drawn up.

Q Was it drawn up in your presence?

A No, it was submitted to me in its final form.

Q What do you have to say about this formulation?

A There is an obvious confusion here between conditions that are to be expected in an actual case of shipwreck or sea distress, and

any experiments that might be carried out.

Q You say then that in the formulation in the affidavit there is a confusion about what you said about the proposed experiments and what you said about the dangerousness of the Berka drug as such, if it is used in an actual case of sea distress without being tested?

A Yes.

Q And you see that particularly clearly in this sentence which reads: "It was decided—" such and such, although it was generally admitted that the Berkatit seawater process seriously impairs health, etc.; now what is the incorrectness you see here?

A The incorrectness lies in the fact that in practical cases of sea distress the shipwrecked person drinks seawater in unlimited quantities water the taste of which has been improved by Berkatit, and does not have the will-power to drink only small quantities of the seawater. The quantities that he consumes become larger and larger until they give grounds for the apprehensions regarding death expressed in this sentence.

Q And for this reason you opposed Berkatit as such?

A Yes.

Q The experiments that in your opinion would not lead to these injuries, why did you oppose them?

A Because in my opinion they were completely unnecessary.

Q And in your previous interrogation you had clearly delineated this distinction, had you not?

A Yes, I had.

Q And you admit and want to say today that that distinction of yours is not to be seen in this formulation of the matter in this affidavit here?

A Yes, that is so.

Q But your opposition to Berkatit as such and your opposition to the experiments, did you make these two oppositions clear to the interrogator in your interrogations also?

A Yes, I did.

Q And it is true in this affidavit there is nevertheless nothing to that effect?

A That is so.

Q You said something about notes you had set down?

A At the end of the interrogation I was --

Q No, no, let me interrupt. You said you had drawn up a summary of the various points that had occurred to you, well what happened to that?

A I was asked to turn in this scrap of paper to make the record complete.

Q And in this list were the points you considered important?

A Yes.

Q And this piece of paper must still be among your papers?

A Yes, it must.

Q Did you know anything about the various series of experiments at the time you were interrogated? The series of experiments that are described in Document -- that is Exhibit 133 whether or not they are set down there correctly?

A I had only a vague notion about them and about what was experimented on.

Q However, in this affidavit it says: "It was further decided that the human experimental subjects were to be fed only seawater, processed by the Berke method, for a period of 12 days." How is it that it is so formulated here?

A At that time I said that this did not mean that the persons were to be obliged to drink seawater for 12 days.

Q However, at this time you were shown the Exhibit 133 and told that the experiments had been so carried out?

A Yes, that is so.

Q You were told it had been ascertained that the experiments were so carried out?



A Yes.

Q And this exhibit NO 133 of 23 May regarding the conference of 19 and 20 May, you had never previously seen?

A No.

Q You saw it for the first time during your interrogation?

A Yes.

Q Then to sum up, this formulation was not made in your presence but was a compilation and summary from previous interrogations and was put to you as such?

A Yes.

Q Now to return to the conditions of this affidavit; now to return to the facts themselves, it is not true you were not a member of the commission that was to arrange for those experiments.

A Yes, that is so.

Q Could you have known anything precise about the experimental series as a consequence?

A The experimental series were discussed only on the 25 of May.

Q And we have already said that you took part in this only in part; now, let's take a look at No. 4, in your affidavit, the second sentence: "On orders of the office of the Chief of the Medical Services I looked over Sirany's experiments personally." No, no, -- "I personally gave Becker-Freyseng a copy of my report which was meant for Schroeder, and therefore Becker-Freyseng and Schroeder must have known that the Berke method was very dangerous. Becker-Freyseng and I were of the opinion that Sirany's experiments were not complete since they did not simulate actual conditions of a sea emergency." It is true that you told Becker-Freyseng and Schroeder about the uselessness and dangerousness of the Berke method?

A Yes, that is so.

Q Does this question have anything to do with the question of the dangerousness of the experiment?

A Nothing at all.

4 June 47 M.F.J.C.-3.5 Maloy (Int. Brown)  
Court I

Q But Dr. Schaefer you will admit that the way this No. 4 is formulated gives the impression that the experiments are being called dangerous?

A Yes, you could get that impression from this formulation.

Q. Did you overlook that fact when you accepted and signed this affidavit?

A. It is quite clear that as a former laboratory research man one does not weight every single word and think ones way through the possible consequences of every word.

Q. Let me read to you the last sentence from number four:

"Becker-Freyseng and I were of the opinion that Sirany's experiments were not consummated since they did not simulate actual conditions of a sea emergency."

Does that mean all the Sirany experiments were incomplete and therefore the necessity existed and you collaborated to carry on further experiments?

A. No. In my opinion Sirany's experiments were not sufficient to arrive at a judgment regarding the Berka method.

Q. But, Dr. Schoefer, here again you will admit that the formulation here gives the impression that you and Becker-Freyseng, because the Sirany experiments were incomplete, needed for new experiments; was that the impression you wish to give in this formulation?

A. No, not at all. I believe that can be seen from my final summary, in which I stated my opinion of Sirany's experiments.

Q. Let us take a look at number six. There is discussion here of Reiglbosch's experiments in the summer of 1944 and it says here:

"Photographs and films were also presented and various groups of experiments were discussed."

Now, what do you have to say about those photographs and films, which by the way were already discussed in the interrogation or hearing of Becker-Freyseng; what did you understand by this word "films"; does that word "films" in the affidavit originate with you?

A. Yes, it did.

Q. And what did you understand under the term?

A. I was not thinking of moving pictures, but I did recall that some photographs had been projected on a screen and thought that these

were films of the same sort as x-ray films, diapositive films through which light passes.

Q. Further it reads here:

"Dr. Beigleboeck also reported that the experiments had resulted in swelling of the liver and nervous symptoms."

A. That means the muscles were more sensitive, that expression "nervous symptoms."

Q. Did you use that phrase, "nervous symptoms" in your previous other interrogations?

A. Yes, it is quite possible that I did.

Q. What did you understand that to mean?

A. I understood that to mean a general increase in reflexes and increased sensitiveness of the muscular system.

Q. Well, it says here:

"Delirium and mental disturbances also appeared."

A. The word "delirium" is an error on my part, arising from confusion as to thirst that is attendant to cholera.

Q. How did it happen that you made this confusion; how did you concern yourself previously with the thirst symptoms of cholera?

A. Thirst in Cholera, this thirst was the only thirst previously known resulting from a severe loss of water in the intestines. In my Nurnberg paper I made use of this analogy; that is where the confusion arose.

Q. Now, how about mental disturbances?

A. With this I meant an apathy and somnolence.

Q. Dr. Schaefer, do you have enough clinical experience, as you have not actually seen these symptoms yourself, to describe them yourself?

A. No, I did not have that degree of clinical experience. My clinical experience was not large. I was primarily a laboratory researcher.

Q. It says here further:

"As a result of this meeting, it was decided that the Berka process



was absolutely no use to the Luftwaffe."

Had that always been your opinion?

A. Yes.

Q. But I want to ask you what the word means "decided?"

A. Well, that is an ill chosen expression, I should have said it was ascertained or reported and that was the result of the experiments.

Q. Was anything decided at all, did you have the right to make any decision; does the military make decisions?

A. Those are the military orders.

Q. Now, I come to number seven.

"It was an open secret in the highest medical circles that the Berka method was used on inmates of concentration camps."

What do you want to say about the meaning of this phrase: "An open secret in the highest medical circles?"

A. The expression "open secret" did not originate with me.

Q. What had you then said in the preceding interrogations so that the interrogator chose this formulation; what did you actually say in detail?

A. I don't believe I said anything in this connection.

Q. But it was discovered in your interrogations first of all that Professor Schroeder knew of these things, secondly that Becker-Freyseng knew of them and who else?

A. Professor Anthony and Christensen.

Q. Now here by the phrase "in the highest medical circles" did you speak with the highest medical circles, or did you just happen to hear the names you just mentioned?

A. Yes, that is the phrase. "in the highest medical circles" is not just the one that should have been used. I was told if a man like Professor Schroeder was present it would be perfectly justifiable to use the phrase, "in the highest medical circles."

Q. And that satisfied you?

A. Yes.

Q. in the same way you were satisfied to use the word "decided" entirely aside from the question whether you had the right to vote?

A. Yes.

Q. Now, Dr. Schaefer, I shall sum up. You have just stated that this affidavit contains correct information and also incorrect information and the incorrect information results from the fact that correct statements are brought into association with one another, which lead to a construction which you did not intend; is that so?

A. Yes, that is so, but I must say also that at that time I did not see the full consequences of this erroneous construction.

Q. And your own attitude about the experiments is not expressed in this affidavit; is it?

A. No.

Q. In this affidavit only your attitude on the Barkatit method is expressed as such?

A. Correct.

Q. However, during the interrogation you did express your opposition to all experiments and consequently deny responsibility for all of them?

A. Yes, but apparently I did not do that clearly enough, besides I saw no reason for carrying out the experiments since there was nothing to investigate on Wofatit and the experiments on Barkatit were useless.

Q. Nevertheless you signed this affidavit, although it contained partly with your knowledge and partly without your knowledge many errors. It says here:

"No duress or threat of any kind."

"Could you please make a statement about this statement, 'I was subjected to no duress or threat of any kind?'"

A It is quite true I was subject to no duress or threat but if one is suddenly put in prison there is a certain shock and one reacts to things that really don't exist.

Q Until your arrest you were working in the Aaro Medical Center in Heidelberg, is that so?

A Yes.

Q You were arrested on 17 September?

A Yes.

Q And you were first interrogated here on the 27th of September?

A Yes.

Q Were you told with what you were charged?

A No.

Q How did the interrogation begin?

A It began by my being asked if I would recognize Professor Beiglböck.

Q Didn't you ask why you were in custody?

A Yes, I was told that I first of all should give information as an expert.

Q Were you told you had the right to refuse to make statements?

A No.

Q Or were you told that you could refuse to answer such questions as might tend to incriminate you?

A No.

Q Well, were you never told that?

A Only after the indictment.

Q In other words you were not told that before this affidavit?

A No.

Q Were you told that you had the right to have counsel?

A Only after the indictment was the right of counsel granted.

Q I gather now from your testimony regarding this affidavit and all of your previous testimony that you asserted you were not responsible for the planning or carrying out of the experiments for the

following reasons: First, you considered them completely superfluous and then there was the further reason that during the conferences you could not say any more than you did, that you had spiritual misgivings about experiments in concentration camps, that we know particularly from Mrs. Koenig's affidavit, Exhibit No. 19. Now I should like to ask you the following: What should you have done had you received the order to carry out the experiments yourself?

A. After the conference if that had come up I should have asked that I neither be put in the commission or receive any order which had anything to do with that.

Q. That is all very well, Dr. Schaeffer, but I am asking you what you should have done if you had received that order to carry out the experiments.

A. That is a hypothetical question which is very difficult to answer. Of course, it is very easy for me to say today that I should not have carried out the order.

Q. Not have carried it out?

A. No, but what I really should have done in that case I don't know. I should have made efforts to extract myself from that situation. However, that would have been very difficult.

Q. How could you have extracted yourself? What risks would you have run?

A. I could have reported me sick.

Q. And if you were not actually sick?

A. I could have given myself an injection in the laboratory or something of the sort but that was just as dangerous itself, because after I was admitted to a Luftwaffe hospital it would have been easy to see what I had done and there would have been very serious disciplinary consequences.

Q. Did you have any chance to turn to the public, let us say, through the press, if you really did not feel that you could not have anything to do with these matters?



A. That was quite out of the question. There was no public, not even in peacetime. There was no one to turn to if you objected to obeying a state order.

Q. And through the regular channels, through official channels?

A. There was even less possibility there.

Q. Now a final question. Are you still opposed to those experiments today, after you know the defense put up by Becker-Freyseng and in part by Beiglboeck? Now you know that from the medical point of view these experiments were not dangerous or inhumane perhaps?

A. My reasons now are the same as they were, namely, I object to them on the grounds that the experiments were superfluous; secondly, because I myself would not have carried out any experiments on concentration camp inmates!

Q. Why not?

A. Because the voluntary consent of a concentration camp inmate is a very relative thing.

Q. And for you this reason was sufficient to determine your unwillingness to participate?

A. That is so.

DR. FELCKHAUSEN: No further questions.

THE PRESIDENT: Are there any further questions to be propounded to this witness by defense counsel?

DR. KRAUSS: Counsel for Hestock.

BY DR. KRAUSS:

Q. Dr. Schaeffer, I revert to the affidavit you signed, NO-474, Exhibit 131, in which under No. 7 you remark that it was an open secret in the highest medical circles that the Berka method was used on inmates of concentration camps. In the explanations you made during your interrogation by your counsel just now a number of further questions have become superfluous. Let me ask you the following questions. Was the Berka method as such a matter that concerned the Germans and that was familiar in general to the German physiological chemists?

A. No, by no means.

Q. Dr. Schaeffer, is it your opinion that for example a well-known German surgeon was informed about what the Berke process was?

A. A surgeon - certainly not.

Q. Dr. Schaeffer, do you have any concrete reasons for believing that the defendant Dr. Rostock knew of this process and of the experiments on concentration camp inmates?

A. No, I didn't know Professor Rostock at all. I simply knew he had a surgical clinic.

Q. Is it true, Dr. Schaeffer, that the quoted statements under No. 7 in your affidavit could not and was not intended to include Professor Rostock?

A. Yes, that is so.

DR. KRAUSS: Thank you, Mr. President. No further questions.

DR. STEINBAUER: Counsel for Beiglboeck.

BY DR. STEINBAUER:

Q. Witness, I have only three short questions to put to you. First, when did you make the acquaintance of Professor Beiglboeck?

A. In October 1944.

Q. In other words, after the experiments?

A. Yes, after the experiments.

Q. The second question: Did Dr. Beiglboeck participate in the planning of the experiments in any way, in particular, did he take part in the conference mentioned in Document Book 5?

A. No, Dr. Beiglboeck took part in no conferences.

Q. And until he was given the order he could not have known anything about the matter?

A. Yes, that is so.

Q. And now a little final question. Did he tell you anything about his experiments on himself?

A. Yes, he did.

DR. STEINBAUER: Thank you.

THE PRESIDENT: If there are no further questions by defense counsel, the prosecution may cross-examine the witness.

Prior to the beginning of the cross-examination the Tribunal will be in recess a few minutes.

(A short recess was taken.)

THE MARSHAL: Military Tribunal I is again in session.  
CROSS EXAMINATION

BY MR. SAUND:

Q Dr. Schroeder, you were in attendance at the freezing conference in Murnberg in October 1942?

A Yes. On the second day of this meeting I held a lecture.

Q Who ordered you to that conference?

A Generalarzt Martius.

Q Who approached you and requested that you give a report at that conference?

A I received this assignment from Professor Anthony.

Q How did Dr. Anthony happen to approach you?

A He knew that I was working in that field.

Q Were you considered an expert in that field -- thirst?

A At that time?

Q Yes.

A I really don't believe so.

Q Did you have any discussions with Professor Anthony prior to the deliverance of your lecture or report at the October meeting?

A Yes, I talked to him.

Q Did you have any dealings with Becker-Freyseng concerning this matter?

A Yes, I talked to Becker-Freyseng too.

Q What did you talk to him about?

A The thirst problem in cases of distress at sea. More or less what I know up to that time, and that I had performed an orientation experiment.

Q What did you think Becker-Freyseng's position was at that time in reference to the October meeting?

A I had the impression that he had to take care of the business to supply billets, etc., but that is just a vague impression, I don't know exactly.

Q Well, why did you talk to him about your report?





A No, the meeting on the 19th and 20th concerning the sea water experiments.

Q And after having been to the Murnberg conference in October 1942 and at a later date having read this portion of the report of the October meeting you were unable to ascertain that human beings were used in experiments by those various officers?

A That is correct.

Q And the first time that knowledge was brought home to you that concentration camp inmates were used as experimental subjects was that conference of 19 May 1944, is that correct?

A Not that they had been used, but that the idea of using them was being entertained. Before that time, it was through an officer of the Wehrmacht who had pointed out to me that he knew of difficulties of getting experimental subjects for my thirst experiments and suggested that I use prisoners.

Q Was the freezing problem of interest to you?

A No, not at all, not before or afterwards did I ever have anything to do with the subject.

Q Did you listened to Holzlochner's lecture?

A I cannot say. I think I did not hear Holzlochner's lecture.

Q Now surely, Doctor, you must recall whether or not you heard Holzlochner's lecture?

A I would certainly have remembered Rascher's remark, consequently I assume that Holzlochner's and Rascher's reports were on the first day.

Q In November 1943 you reported to the Medical Inspectorate that you had developed a method to make sea water potable, is that correct?

A Yes, that is correct.

Q Was that the first time you had reported to the Medical Inspectorate?

A Before that I had made a report that work was being carried on and I reported how far the work had gone.

Q Did you conduct experimentation on animals while you were developing Molfatit?

A Yes. I carried out animal experiments, but they were in general completed.

Q Did you carry out experiments on human beings?

A Yes, I carried out experiments on volunteers, persons who were at liberty.

Q Where did you carry out these experiments?

A In Berlin.

Q Did you experiment on yourself likewise?

A Yes.

Q How long did your experiments take?

A Which? The ones on my human subjects?

Q Yes.

A Three or four days.

Q. How many human subjects did you use?

A. There were about four or five, some of them were used several times.

Q. Did you also use a control group; did you set your experiments up into a series wherein you subjected some to ordinary sea-water, others to normal water and the others to sea-water treated by your method?

A. No, no control group was necessary in my experiments. I merely carried out tests on hunger and thirst. It never occurred to me to perform human experiments with sea-water from which the salt had been removed, according to the Berka method. I frequently drank this water myself and the chemical analysis was absolutely sufficient for such water.

Q. Doctor, would it be possible then to ascertain the potability of sea-water without having human experiments?

A. You mean natural sea-water?

Q. No, Doctor, if you treat sea-water with your Schaefer method; was it possible to determine the potability of that sea-water treated by your method without having resorted to human experimentation?

A. Yes, that is 100% possible.

Q. Would that be possible in the case of sea-water treated by other methods?

A. That depends on the method; in the Berka water it was possible.

Q. It was possible to determine chemically whether or not Berka water would be effective, that is water treated by the Berka process would be effective to render the sea-water potable?

A. That is true and I have proved that.

Q. Now Doctor, when you carried out your experiments then you merely gave these experimental subjects, which you used in 1943, so many cubic centimeters of sea-water treated by your method; is that correct?

A. Are you speaking about the experiments, which I submitted as documents to my technical assistants on the experiments where I drank



the sea-water treated with Walfatit myself?

Q. Maybe I misunderstood you, Doctor, I understood you to say this morning, in answer to my questions, that in the process of developing your Schaefer method, you had experiments on animals and experiments on human beings. Now maybe I misunderstood, did you merely state that you had only tried the water on yourself and did not subject experimental subjects to sea-water treated by the Schaefer method?

A. That is true. That is true, my animal experiments and the experiments on human subjects were not connected with Walfatit because it was not necessary.

Q. In the experiments, the animal experiments and the human experiments, did you subject the experimental subjects to sea-water?

A. Only in the animal experiments and in some cases in the human experiments at the end of the experiment.

Q. Well, what was the purpose of your human experiments that you conducted in 1943; to lay the ground work of developing the Schaefer method? What did you do in these experiments, did you give the human subjects water to drink; just what did you do with them?

A. These subjects were to demonstrate how long one could go without water and food without losing the ability to concentrate and ability to work.

Q. Then I presume after they had gone for a few days without water or food, you would have them drink a certain amount of sea-water to see what the effects would be; can you explain to us in detail, Doctor, just what you were trying to accomplish by your experiments?

A. I held the point of view that it was better to go without food and water than to drink sea-water. Consequently, I wanted to test with my experimental subjects how long one can go without food and water without losing in efficiency and whether at the end if one drank salt water thirst was lessened or increased.

Q. Well, at the same time did you also have another group drinking sea-water, so that you could compare the two?

A. No, I did not have any group that drank sea-water all the time.

Q. Well how did you make a comparison, Doctor?

A. I questioned the same person before and after they had drunk salt water, I asked them how they felt and whether that was a good thing.

Q. Well, now, when you are subjecting persons to salt water, is it necessary to confine them or can they conduct their usual business and tend to their work like the experimental subjects Professor Vellhardt used in his experiments?

A. That depends on how reliable the subjects are. If I have someone in whom I have complete confidence that he will keep the conditions of the experiments, then of course he can continue to perform his work.

Q. Certainly if a man volunteers for your experiments you would have confidence in him, wouldn't you?

A. Not if he was promised a reward, therefore my experimental subjects did not get any reward.

Q. Tell if you were conducting experiments on volunteers and a man had drunk sea-water for two days and then decided he could not stand it any longer and then decided he did not want to go through with the rest of the experiments and asked you for food and water, of course you would have given it to him, wouldn't you Doctor?

A. No, of course not.

Q. Then, he ceases to be a voluntary subject, doesn't he?

A. That is true unless he had obligated himself in the beginning for a certain reward to hold out for a certain period. If he withdraws from his contract, he would not get his pay and the experiments would be discontinued.

Q. Is it injurious, Doctor, to drink sea-water as your only source of water supply?

A. That depends on the amount of water and the period of time during which the water is to be drunk.

Q. What quantities of sea-water can a normal person tolerate without injury and for how long?

A. I would say 400 to 500 cc per day in individual cases during five to six days.

Q. Well now, after how many days under these conditions does the impairment of health take place?

A. In the range of 400 to 500 cc?

Q. Yes, Doctor.

A. I would think from the sixth day on perhaps.

Q. Well would that occur if they continued to drink the sea-water; normally when would death occur; after how many days?

A. That is extremely difficult to say.

Q. Can you tell us the reason why sea-water is injurious to health and can cause death?

A. Yes, the organism has to eliminate the salt which has been taken with the sea-water, but since the kidneys are unable to raise such a high concentration in the urine as sea-water, in the long run the body must use up its own supply of sea-water in order to eliminate this salt and consequently dehydration occurs. This loss of water of course influences unfavorably the biological process in the tissues.

Q. Then can it be said that the only reason why sea-water is injurious is the fact it is a hypertonic salt solution?

A. Yes, ~~it~~ <sup>one</sup> can say that.

Q. Well, was this fact well recognized by medical scientists before 1944?

A. Yes.

Q. Well, doctor, you say that if a person was to drink four to five hundred CC of sea water that an impairment of health may normally occur after five or six days, can you tell us when an impairment of health would occur to a person drinking one thousand cubic centimeters of sea water daily?

A. I would say that disturbances might occur in such cases as early as the third or fourth day.

Q. Well under those circumstances could you determine or is it possible to state when death would occur?

A. That is extremely difficult to say. I would not venture to say it. The capacity of the kidney varies greatly from one individual to another.

Q. Doctor, what symptoms develop while a person is being subjected to sea water exclusively, say after the first or second day, what symptoms develop that are unusual?

A. You mean in the case of distress at sea when one can drink unlimited quantities of sea water or definite doses?

Q. Well, are you familiar with practical cases at sea?

A. I know them only from literature. I have never experienced any such case myself.

Q. Well now what symptoms would develop in a practical case of a human being at sea where he has access to unlimited quantities of sea water?

A. If he has unlimited quantities available there would be severe diarrhea.

Q. When would that take place? Would it depend upon the amount of sea water he had drunk or is it ordinarily a second or third day occurrence?

A. That would depend on the size of the individual dose, from 300 cubic centimeters on.



Q. What other symptoms would appear?

A. Great thirst, then the symptoms of dehydration, dryness in the mouth and mucous membranes, dryness of the skin, reflex increases, the muscles become harder.

Q. May a person develop hallucinations as a result of drinking sea water?

A. Yes, I should think so, because of the need for water there would be hallucinations.

Q. Well now would an experiment conducted by a scientist in his laboratory on human beings wherein he applied four or five hundred cubic centimeters of sea water to the subject daily, would those same symptoms appear that would be found in practical sea water cases at sea?

A. No.

DR. MARK: (Defense Counsel for Professor Schroeder and Dr. Becker-Freyseng)

Mr. President, I should like to take the liberty of inquiring whether the Prosecutor is cross examining the defendant Schaeffer or whether he is consulting him as an expert. If the latter is the case I should have to object. I cannot assume that Dr. Schaeffer is in any position to give an opinion here as to the harm which can be caused by sea water in this case or that, because from the point of view of the defense I cannot ascribe to Dr. Schaeffer the medical experience necessary in order to give an opinion here. Moreover, it is not compatible with the role of the defendant in the witness box to appear at the same time as an expert. Moreover, the defense could argue that he lacks not only the qualifications but the justification for doing so. I should, therefore, like to suggest that the Prosecution limit itself to cross examination and not ask questions of this defendant which should be put to an expert.

THE PRESIDENT: The cross examination by the Prosecution may proceed to the extent of determining the reasons of the defendant Schaeffer for establishing his opinion as to berkatit on the one hand and wofatit on the other. The cross examination should not proceed to the extent of examining the witness as an expert upon more general matters. The cross examination may proceed.

BY MR. HARDY:

Q. Well now, doctor, what symptoms would develop in an experiment after a person had drank 500 CC of sea water per day?

A. If it was given in individual doses of less than 300 cubic centimeters in the course of time the same symptoms develop as in ordinary thirst.

Q. Well would the same symptoms be apparent, that is diarrhea, hallucinations and those symptoms that you outlined that would be apparent in the case of a person actually at sea?

A. No, diarrhea would certainly not occur, but on the contrary constipation.

Q. Well if you used 1000 CC would diarrhea appear?

A. No, as long as the individual doses were under 300 CC.

Q. I see, doctor, was there ever a method invented or developed in the history of Germany to render sea water potable prior to the time you developed wofatit?

A. At least I knew of no method.

Q. Then you were the first one in Germany to develop a method which rendered sea water potable, an effective method?

A. Yes, one could say so.

Q. Then you are perhaps the only expert in Germany on the potability of sea water, doctor, you and Dr. Ivy hold that distinction in common?

A. As far as removing salt from sea water is concerned that seems to be so.

Q. Well now in November 1943 when you reported to the medical inspectorate that you had a method to render sea water potable, I understood you to say that you actually had an experiment at the medical inspectorate and at such time Professor Hippke and others present drank the sea water rendered potable by the Schaeffer method, is that correct?

A. Yes, that is true.

Q. Can you tell us or can you recall who else drank your sea water?

A. I assume Professor Anthony, Dr. Becker-Freysong, I can't give the names of the other men, I didn't know them at the time.

Q. Now, when you conducted this so-called experiment at the medical inspectorate did you have raw sea water and then apply the wofatit to it in their presence so that they could determine you were actually using sea water?

A. Yes.

Q. And after applying your method the water was drinkable, is that correct?

A. Yes, that is right.

Q. The gentlemen at the meeting were fully aware of the fact that water treated by your method was no different than natural water, natural drinking water?

A. That is right.

Q. Then actually that was not an experiment, it was merely a demonstration on your part?

A. Yes, it was a demonstration.

Q. When did Professor Schroeder first hear of your sea water, pardon me, of your method to render sea water potable, that is wofatit?



A. I cannot say when he first heard of it. I can only say that I demonstrated it to him in 1944, perhaps in April.

Q. And Professor Schroeder was also aware of the fact that you had developed this method, and he in fact had drank some of this water?

A. Yes, that's right.

Q. When did you first hear that Berka had developed a method?

A. That was in January or February 1944.

Q. And then you received an order to check and review the work by Dr. von Sirany, is that right?

A. Yes, that's right. I went to Vienna and looked at the experiments myself.

Q. Who ordered you to Vienna?

A. Professor Anthony.

Q. Was he the only one you dealt with in that matter?

A. Yes, at that time, yes.

Q. And you came to the conclusion after examining Dr. von Sirany's work with the Berka method, that this method was not of any value and would not in fact render sea water potable?

A. Yes, that's right.

Q. Well, were you of the opinion that Dr. von Sirany's experiments had not gone far enough?

A. No, that was not my opinion. I was of the opinion that conditions are different in the case of distress at sea but that the experiments were completely adequate to determine whether Berkatit was of any value or not.

Q. When did you decide, doctor, that that was your opinion?

A. That was always my opinion. In my report to the Medical Inspectorate at the time it says that there are the following decisive facts to aid in forming an opinion on the Berka method.

Q. Were you of the opinion that persons subjected to sea water treated with the Berka method would develop the same symptoms as people subjected to common ordinary sea water after a period of a few days?

A. Yes, that's right.

Q. Well did the Berkatit help at all? That is, you stated that Berkatit was nothing but hard candy as a fact. Would the application of Berkatit to sea water have aided a person distressed at sea to any extent? Or, to the contrary, would it have worked an additional hardship?

A. Berkatit would not change the sea water in any way but it improved the taste and this brought about a psychological danger for the persons in distress at sea.

Q. Well, would the food value in Berkatit have aided the distressed person?

A. The food content of Berkatit is very great but the amount of Berkatit which was to be put into the sea water was so small that in practice one can really not speak of any food value.

Q. Then when you reported to Professor Schroeder you completely outlined all those disadvantages of the Berka method?

A. Yes.

Q. Was it obvious from your report that a person subjected to sea water treated by the Berka method would develop the same symptoms after a period of a few days that a person would develop had they drank common ordinary sea water?

A. I expressed that clearly.

Q. What did Professor Schroeder say? Did you talk to him about it?

A. I had the impression that he realized that.

Q. When you stepped over von Sirany's work were you able to test a sample of the Berkatit?

A. I obtained the Berkatit only later.

Q. Did you ever test it chemically yourself?

A. I did not analyze Berkatit itself. That would have been extremely difficult. That would have kept a whole institute busy. There were various compounds in there, sugar and fruit acids, etc., but the

effect of Berkatit on salt contained in sea water I tested.

Q. Well, how long would it have taken to prove that Berka water was chemically nothing but sea water? Would it take ten years, two days?

A. Half an hour.

Q. Half an hour? Then the point could have been proven chemically within half an hour that Berka water was nothing more than sea water camouflaged as to taste?

A. It could only be proved that the Berkatit did not form any chemical compound with the salt.

Q. Well, did you suggest such a simple chemical test or a chemical test as a substitute for the experiments on the prisoners?

A. I said that the chemical analysis proves that Berkat does not form a chemical compound with the salt.

Q. Well, now would such a test not have had the advantage of saving time and also could you not have made such a suggestion tactfully without running the risks which you have said acted as deterrents against open criticism on your part?

A. I even said that that happened but that proved nothing. There were biological objections that said that Berkatit would increase the activity of the kidney and that was the point that also brought into the foreground this advocacy of Berkatit, and that could not be proved.

Q. What was that again, doctor. I missed that last answer. Would you repeat that again?

A. The advocates of Berkatit, especially Professor Eppinger, said that Berkatit improved the capacity of the kidneys. That was something that could not be proved chemically.

Q. Well, how could you prove Dr. Eppinger's point? Merely by experimenting on human beings?

A. In my opinion that was a hypothesis which was not justified. The success could be only so slight that in practice it would be without significance.

Q. Well, after he had performed experiments on human beings how could he determine whether or not the Berka water would improve the kidney condition or would aid the kidney condition?

A. By the concentration of the urine.

Q. Well, would you have to make tests for a rather extensive and long period of time to determine that? Could that be done in 2, 3, 4, 5, or 6 days or would that have to extend over a period of 12 days if the object of the experiment was to determine whether or not Berka water would act as an aid to the kidney condition?

A. One could determine that within six days.

Q. Actually, however in the Berka water the salt was never removed, was it?

A. Yes, that is true.

Q. Well how did you find out that the Berka method wasn't effective?

A. Took the tests which Mr. Von Sirany had already carried out.

Q. Well, did you make any tests yourself?



A No, but the records of Dr. von Sirany's experiments were turned over to me.

Q Well, could the point have been proven chemically by a simple device of psychological chemistry or physiological chemistry such as, for instance, that Berka water would still extract water from a cell like any other hypertonic salt solution?

A Yes, that could have been determined.

Q How long would that have taken?

A Perhaps half day.

Q Did you suggest such a simple chemical test as that?

A That would not show the capacity of the kidneys. That would have nothing to do with that. Through a physiological chemistry test one cannot demonstrate the work of the kidneys. The way the kidneys work has not been clarified even today.

Q Well, as a result of the Berka method coming into the picture it became necessary to hold a meeting to determine which method would be adopted. Is that correct?

A I didn't understand your question.

Q Well, the purpose of this meeting on the 19th of May and the other meeting on the 20th of May was to have a discussion to determine which method was to be used? That is, the Berka method or the Scheafer method? Is that correct?

A Yes, that is right.

Q From that point on, it was a contest between Berka and Scheafer? Is that correct?

A No, that's not right. I expressed my opinion and the other people had to decide.

Q Well, your method had proven itself to be effective, had it not?

A Yes.

Q Berka's method was still to be proven?

A It had been proven by experiments by Dr. von Sirany.

Q In your opinion?

A Yes.

Q Not in the opinion of the other members of this conference?

A Yes, that's right.

Q Well, what was the cause for the refusal of these men in the Luftwaffe - men like Schroeder, Christensen and these various men at this meeting - to refuse to adopt your method that had already been proven which did not necessitate further experimentation or further argument?

A I cannot give you any answer. I don't know.

Q Was it because they deemed the production of your method to be too expensive?

A The Technical Office - Christensen - said there was no silver available.

Q Of course, if the Berka method had been effective - that is, Berkatit had been effective - it would have been far more reasonable to produce than Weikatit, is that right?

A Yes.

Q At this meeting on the 19th of May, just what did you say concerning the Berka method?

A I said that the Berka method merely improved the taste; that it did not change the sea water, in any way; that Sireny's experiments had shown that, in spite of Berka, the salt is absorbed and has to be eliminated through the kidneys; that Sireny's experiments had shown that the patients lose water. I also said that one can still find salt - that is, sodium chloride - in the sea water, and I said that even if there were a compound formed between Berkatit and the salt in the sea water, this compound would probably not be absorbed and if it were absorbed the organic part would be turned and the salt would remain in the kidneys. Sireny's experiments proved this.

Q Well, now, you have described to us your objection at that meeting. Did that objection bring home to these laymen that the Berka

method was nothing more than sea water with a camouflaged taste, and that a person subjected to sea water treated by the Berka method would suffer injuries to health and, after a sufficient length of time, die? Did you bring that home to the members of that meeting?

A Yes, I did.

Q Well then, the note by Christensen on page 12 of Document Book #5, Document NO. 177, Prosecution Exhibit 133, wherein he states - on page 12, the second sentence after the list of names of those present at the 19 May meeting:

"The Chief of the Medical Service (Chef des Sanitarservices) is convinced that if the Berka method is used, damage to health has to be expected not later than 6 days after taking Berkatit, which damage will result in permanent injuries to health and, according to the opinion of Unterarzt Dr. Schaefer, will finally result in death after not later than twelve days."

Then, it is apparent, that Dr. Christensen was fully aware of the dangers of Berkatit as described by you. Is that correct?

A Yes.

Q Did you emphatically state, that damage would result in permanent injuries to health and finally result in death after not later than twelve days?

A Permanent injury to health - I did not say that. There was no proof of that. I only said that after twelve days one would have to expect death.

Q Well, as a result of this expression of your opinion, do I understand that you were threatened?

A On the 20th - at the end of the 20th of May, Schickler took me to one side and said "If you go on like this, you will have to answer to Hilch for sabotage." And I assume, and it is probably true, that he said this statement because I said that the experiments which were to be performed were unnecessary.

Q Did you immediately tell Schroeder about that?

A I told Dr. Becker-Freytag about this threat on sabotage.

Q When?

A Immediately after the meeting.

Q Did Becker-Freytag go to Schroeder about it?

A I don't know. But, according to what I know now, it was impossible because Dr. Schroeder was not in Berlin at the time.

Q Did you consider it your duty to attempt to stop the experiments at Dachau? You were an expert on sea water. That is, the possibility thereof.

A I considered it my duty to express my opinion that the experiments were unnecessary and I did so.

Q Did you ask Schroeder for his support?

A Professor Schroeder was not in Berlin at the time.

Q Well, is it possible, Doctor, that you were anxious to have the experiments conducted with the Berkatit so that a comparison could be drawn and, as a result of the experiments, your method would be the outstanding one and it would be necessary to produce your Wofatit in preference to the ineffective Berkatit? Is that the reason why you took this passive resistance to the experiments?

A I didn't show passive resistance to the experiments. I had no interest in bringing this about. I didn't want Wofatit to be introduced because of ambition. I had a method which was better. If Wofatit were introduced it would benefit only I.G.

Q This is a good breaking point, Your Honor.

THE PRESIDENT: The Tribunal will now be in recess until 1:30 o'clock.

(A recess was taken until 1330 hours, 4 June 1947).



AFTERNOON SESSION

(The hearing reconvened at 1330 hours, 4 June 1947).

THE MARSHAL: Persons in the courtroom please find their seats.

The Tribunal is again in session.

DR. GAWLIK: As Counsel for Dr. Hovon, Mr. President, I ask that Dr. Hovon be excused from attending tomorrow's session for the purpose of preparing his case.

THE PRESIDENT: On request of counsel for Defendant Hovon, Defendant Hovon may be excused from attendance before the Tribunal tomorrow morning in order to consult with his counsel for the preparation of his case which will be heard very soon.

DR. GAWLIK: I have one further request, Mr. President. For several days I am having a witness here by the name of Dr. Horn who must leave by the end of this week. Perhaps it might be possible for me to put the witness Horn on the stand Friday morning. I already talked it over with the counsel for the prosecution.

THE PRESIDENT: Yes — how long?

MR. HARDY: Dr. Steinbauer anticipates his direct examination of the Defendant Beiglböck. It might be feasible to call the witness Horn after the case of Beiglböck who will not take more than a day. If not, I am agreeable to having Horn called upon the completion of the Schofer case if the Tribunal feels it will not interrupt the sequence of the submeter evidence.

THE PRESIDENT: It will probably be better to call the witness after the conclusion of the Schofer case.

MR. HARDY: It is agreeable with me, Your Honor.

THE PRESIDENT: I will ask counsel for defendant Beiglböck how long he anticipates.

DR. STEINBAUER: I agree that this witness is heard after the completion of the Schofer case.

THE PRESIDENT: I would ask counsel for Defendant Beiglboeck that.

MR. HARDY: Counsel for Dr. Hoven is Dr. Gawlik. Now counsel for Dr. Beiglboeck is Dr. Steinbauer. I request that Dr. Steinbauer should call this witness.

THE PRESIDENT: It is desired to ask Dr. Steinbauer a question. How long do you anticipate it will take to present the evidence for Defendant Beiglboeck?

DR. STEINBAUER: I believe a day and a half or two days.

THE PRESIDENT: The Tribunal will hear the witness Horn at the close of the Schaefer case.

DR. GAWLIK: Correction, Mr. President. The witness's name is Dorn, not Horn. However, I should like to know when the Schaefer case will be concluded. I cannot contact the witness today. It will have to be tomorrow morning at the hearing.

THE PRESIDENT: Very well. Tomorrow morning will be satisfactory.

MR. HARDY: We have a request of Defense Counsel for the file in my office with notice of the background of the witness Dorn — that is, his nationality, date of birth and so forth.

THE PRESIDENT: Counsel for the Defendant Hoven will find the usual statements concerning the witness as soon as possible.

DR. KONRAD SCHLEMER - RESUMED

CROSS EXAMINATION (Continued)

BY MR. HARDY:

Q The conference 19 May 1944 -- did the members thereof discuss at that time what plan would outline the actual experiments which would be later performed at Dachau?

A One suggestion or another was made but plans in detail were not drawn up.

Q Was it obvious from that meeting on the 19th May that experiments were inevitable?

A I don't know how you intend that question.

Q What I am driving at, Doctor, is simply this. On the 19th of May, Christensen, Schickler, Berka, Schnafer, Becker-Freysong, Mr. Pahl and Major Jaworek met together to discuss further research as to the potability of sea water. Can you kindly tell me whether or not on the 19th of May -- not the 20th or the 25th, but the 19th, -- a discussion took place concerning experiments to be conducted; or was that a meeting limited merely to the discussion concerning the attributes and qualifications of the Berka method as opposed to the Schnafer method?

A. The conference on the 19th was limited to comparing these two methods to one another. However, the proposal was also made that this difficulty be attacked experimentally.

Q. Did you raise any objections to a proposed experimental plan on the 19th of May?

A. Yes. I said that I— I said I couldn't see why experiments should be carried out about that.

Q. Why did you object, more specifically?

A. Because I didn't see the reason for that.

Q. You thought that they were absolutely unnecessary?

A. That is right.

Q. Did you consider that these experiments would have been criminal?

A. No, one could not have been of that opinion.

Q. Then the entire basis for your objection was merely because the experiments were scientifically unnecessary?

A. The reason for my objection on the 19th was that the experiments were scientifically unnecessary, because the further details about how long and on whom and where the experiments were to be performed, and so forth, were not mentioned.

Q. Then you after the strenuous objections attended the meeting on 20 May?

A. Yes.

Q. Why?

A. Because I was ordered to and because the representatives of the Navy were to appear on the 20th and because it could be assumed that the discussion would be carried on. For this reason I was ordered to attend as an expert.

Q. Did you have any misgivings about attending the second meeting on 20 May inasmuch as you had strenuously objected to the developments of the 19th meeting?

A. Why should I have had misgivings in attending the conference.



A. The conference on the 19th was limited to comparing these two methods to one another. However, the proposal was also made that this difficulty be attacked experimentally.

Q. Did you raise any objections to a proposed experimental plan on the 19th of May?

A. Yes. I said that I-- I said I couldn't see why experiments should be carried out about that.

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Q. Did you consider that these experiments would have been criminal?

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A. Yes.

Q. Why?

A. Because I was ordered to and because the representatives of the Navy were to appear on the 20th and because it could be assumed that the discussion would be carried on. For this reason I was ordered to attend as an expert.

Q. Did you have any misgivings about attending the second meeting on 20 May inasmuch as you had strenuously objected to the developments of the 19th meeting?

A. Why should I have had misgivings in attending the conference.

I couldn't argue about it. I was simply ordered to attend. I wasn't a private citizen who could do or refrain from doing what he wanted to do. If I had been a private citizen, I would have said, "I have enough of this matter."

Q. If you had been a private citizen, you would have said you had enough of this matter and would not have attended, is that right?

A. Yes, that is right.

Q. Did you tell that to Schroeder on the evening of the 19th?

A. On the evening of the 19th I didn't see Schroeder at all.

Q. Did you see Becker-Freyse and ask that you be relieved from further attendance at these conferences?

A. There was no reason to do so. You simply can't refuse to obey a military order. That is a perfectly absurd idea. That isn't done in the army.

Q. If you thought a military order criminal in nature, would you carry it out or would you refuse to carry it out, hypothetically?

A. I should have tried to find some way of avoiding carrying out the order.

Q. And just what did you do on the evening of the 19th of May? Did you make any further attempt to further explain to Becker-Freyse or Schroeder or any other member of the office or Medical Inspector of the Luftwaffe that these experiments were absolutely unnecessary and that if the subjects used were to be subjected to sea water rendered potable or allegedly rendered potable by use of the Berkatit method a danger would exist?

A. On the 19th of May there was no talk at all of any criminal experiments. And an unnecessary experiment is not a criminal one.

Q. Well, now, on the 20th of May, Doctor, we hear for the first time that an actual experimental plan was discussed. On page 15, Document No. 177, which is Prosecution Exhibit 133, Document Book 5, we note at the top of the page that a commission was to be set up for the arrangement of these series of experiments and then it states:

"The series of experiments shall include the following:

- "a) a. Persons to be given sea water processed with the Berka method;
- "b. persons to be given ordinary drinking water;
- "c. persons without any drinking water at all;
- "d. persons given to drink according to the present method."

When did it arise or when was it decided that a further group would be given the Schaefer sea water?

A. Neither on the 19th nor the 20th. When that was decided I cannot tell you at all because as far as I know it wasn't decided on the 25th either. I assume that this additional group was included at the very end.

Q. Who included it?

A. That I can't tell you.

Q. Did they ask your permission?

A. No.

Q. What would be the purpose in experimenting with the Schaefer drug or Schaefer method as opposed to the Berka method if these experiments as you state were merely to determine what effect the Berka method would have on the kidneys?

A. I can't tell you that either. That would have been a perfectly senseless order. At least, I do not know I am responsible for that.

Q. And you feel that the commission that made the arrangements for these series of experiments were not properly informed or were they so blind that they would not see?

A. The commission, no, the commission probably had some ideas about this, but I don't know whether the commission was the agency that ordered it. Possibly it was thought that instead of using the normal control group, and I think Becker-Treysong stated that here. In other words, instead of having a group drinking fresh water a group would drink water treated with Wolfatit.



Q. Well, now, in an experimental series, Dr. Schaefer, is it necessary to employ a control group to discover whether or not Berkatit would have effect on the kidneys? Could not you do that simply by having five experimental subjects and subject them to sea water made potable or sea water treated with the Berka method without having 44 subjects employing control groups giving some of them 500 cc, others a thousand cc, or having a starvation group, etc?

A. Well, food plays a role, too. You had to have a comparative group, a group which for the sake of comparison received normal water and food like people in sea distress. Moreover, Becker-Freyseng has stated here in detail that when drawing up the plan for these experiments they considered what procedure should be introduced and they had to find out whether people should be left thirsty or whether they should be given large or small quantities of sea water.

Q. Then the express purposes of the experiments were not as Professor Eppinger had intended; Becker-Freyseng had some ideas about the matter, is that it?

A. Yes, and they were extended by Professor Eppinger.

Q. With your knowledge as to the efficiency of the Berka method, having reviewed Sirany's work and later having heard Beiglboeck's report concerning the experiments at Dachau, do you think that you could have possibly conducted experiments to determine the effectiveness of the Berka method on the kidney without using such a substantial number of experimental subjects as used at Dachau; for example, could it have been done with five or six experimental subjects as the purpose of the experiment was outlined by Professor Eppinger?

A. Well, that's very hard to answer, hard for me as a laboratory researcher. The characteristics of individuals are so different in all biological experiments that it would probably be well to use such a large group.

Q. However, you could have determined the effect of Berkatit on the kidney and have answered Professor Eppinger's question without such



an exhaustive experimental plan and program, could you not?

A. The simple question whether Berkatit increased the concentration capacity of the kidneys or not would of course have been answered with only a part of the total experiment.

Q. Well, what do you propose to tell us what the reason for the extensive program was? Did Becker-Freyeang have another idea? What was his purpose?

Court No. 1

DR. PELCKMANN : I should like to object. Mr. Hardy is asking questions regarding thoughts which Becker-Freyseng perhaps entertained or could have entertained regarding the reasons for the experiments that were undertaken. I believe that this is a hypothetical question because the defendant Dr. Schaefer cannot state what thoughts Becker-Freyseng has. He has repeatedly said that he repudiated the experiments and that he had to do only with Wofatit. I do not believe that the witness can answer any other hypothetical questions but those relating to that.

MR. HARDY : I am unaware that I asked him for his opinion, I asked the witness just what thoughts Becker-Freyseng expressed when they planned these experiments.

DR. PELCKMANN : Then in that case I did not understand the translation, it is perfectly alright for Mr. Hardy to ask the witness what thoughts were expressed.

THE PRESIDENT : Counsel on cross-examination may ask the witness what was said at these meetings by the different members and present if he remembers what was said and if he has the information, but he should not be asked for their thoughts, ideas or purposes insofar as they were not expressed in words.

BY MR. HARDY :

Q.- These experiments, Dr. Schaefer, as I understand them - and I might admit that at this point I am slightly confused - were conducted for two purposes, one was to satisfy the curiosity of Professor Eppinger; what was the other purpose for?

A.- To satisfy Professor Eppinger's curiosity, I don't believe that was the purpose of the experiments.

Q.- Well, one was to test the efficacy of Berketit on

the kidney and that was Professor Eppinger's question ; was there another purpose ?

A.- I assume that . As Becker-Freysong stated it here. There was also the purpose of deciding whether it is better to thirst altogether or to consume small quantities of sea water, but who first had this idea or drew up that plan I cannot recall that. His opinion was that also small quantities of that sea-water should be drunk.

Q.- Well, in view of your constant protests to Becker-Freysong, didn't he also strenuously object to any experiments ?

A.- No, he did not.

Q.- Was he also a doubting Thomas, so to speak ?

A.- He was convinced that Wofetit was good, but Christensen said there is no silver and everybody including me thought that Wofetit is out of the question because there was no available silver. Now, I assume that then the question was, should the Berke method be used or not, should a little bit of sea-water be drunk or should the person thirst. By the way in quite a different position than I was in. I do not know it, I do not know his motives.

Q.- Thank you, Doctor. Was it discussed at this meeting on the 19th or at the meeting on the 20th of May as to the duration of the experiments ?

A.- Regarding the duration of the experiments only this was said, a drug or preparation is needed which will permit people to survive for twelve days at sea and the experiments are to be continued until some physical disturbances occur in the experimental subjects and if no disturbances occur, then the experiments are to be discontinued after the twelfth day. That was roughly the general impression one ga-

thared from that discussion.

Q.- Did it annoy you that the meeting went this far after your objections had been raised ?

A.- Yes, that did annoy me.

Q.- Well, when they discussed the duration of the experiments did they at that time discuss the subjects to be used ?

A.- The discussion of the experimental subjects was taken up later. It was generally ascertained that there were no experimental subjects available and so far as I can recall, Dr. Schickler spoke to Becker-Freyseng, and they were speaking at this time of another possibility, and then the proposal was made to use prisoners.

Q.- Was the proposal not to use prisoners brought up because of the fact that you emphasized that any experiments lasting twelve days wherein Barkotit was used that death was finally result ?

A.- No, I consider that quite out of the question. It was not said that the experiments had to last twelve days, but that they should last that long if there were no disturbances that occurred.

Q.- This passage on page 13 of document book No. 5, the same document, No. 177, Prosecution Exhibit No. 133, under 2 states :

"Duration of experiments : 12 days.

"Since in the opinion of the Chief of the Medical Service (Chef des Sanitätswesens) permanent injuries to health, that is, the death of the experimental subjects had to be expected, as experimental subjects such persons should be used as well be put at the disposal by Reichsfuehrer SS."

Doesn't that passage, written by Christensen, convey the



Court No. 1

thought that the necessity of resorting to the Reichsfuehrer SS to obtain subjects was simply because the death of the experimental subjects had to be expected?

A.- No, no one ever said anything like this nor do I recall anything of that sort.

Q.- Does that passage convey that thought even of itself?

A.- Yes, if you would read this passage you could get that thought. That is however simply a compilation on the part of the person who wrote this statement.

Q.- Was this the first time that you have heard that experimental subjects were available in concentration camps, inasmuch as you were unable to ascertain from Holzschner's report of the Nurnberg conference in October of 1942 that concentration camp inmates were used; was this the first time that information was brought home to you?

A.- Yes.

Q.- Did this horrify you, Doctor?

A.- I must say that I found that a very unpleasant thought, because I dislike experiments on prisoners.

Q.- Had you ever been horrified at any other methods used in certain research circles?

A.- Are you thinking of other literature?

Q. No, I am thinking of a passage in your document book No. 1, in Schaeffer document book No. 1, Document No. 3, which is Schaeffer Exhibit No. 3, on page 5, which is the last page of an affidavit by Dr. Helmut Reichel, and he states therein in the last paragraph as follows:

"I was separated from Dr. Schaeffer by the war. Not until the war was over did I meet him again in Bad Pyrmont, where, as he had done before the war, he expressed to me his horror at the methods of certain research officials."

Now, Dr. Schaeffer, what methods do you have in mind and what were the horrors which were so repulsive to you, that are outlined here?

A. I was thinking of the Berka method.

Q. Then you considered it rather horrifying, horrifying to use the Berka method on human beings in concentration camps, is that right?

A. I meant to say it was horrifying that such dilletantism reached such proportions as to set three governmental offices in motion and to experiment in this direction beyond the limits of all reason.

Q. Well, now when the subject of volunteers was brought up at this meeting, did you take a mental note of that?

A. From the words that were used, one could see that the subjects were only to be volunteers, and I think Becker Freyseng said enough persons would volunteer in view of the increased rations they would get.

Q. You actually heard Becker Freyseng say that they would only use concentration camp inmates if certain inmates would volunteer or did he merely state - pardon me doctor, go ahead.

A. I was about to answer your question.

Q. Answer it please.

A. You asked whether he said that only subjects were to be used if they were volunteers. Now perhaps you couldn't assume that from what he said but you could assume he was thinking exclusively of volunteers. I can only repeat the words as I now remember them.

Q. Well now these experiments with Berkatit were to be performed on volunteers at your disposal or at this committee's disposal by the Reichsfuehrer SS, the experiments were to be supervised by Professor Deiglböck in a manner prescribed by this committee so that no conditions would exist which might impair the health of any of the experimental subjects, yet you were horrified, - why?

A. There are so many thoughts embodied in that question of yours that I am not sure I can remember them all. In my answer I will have to take them up one by one.

Q. Kindly do that.

A. You said first that they "were to be made available either to you or to the committee". None were made available to me, I needed none and wanted none, nor did I want to carry out any experiments for I did not see any necessity for them and I had my own field of work.

In addition I wouldn't do anything after others drew up the plans for the experiments. Moreover, I have already made clear that the repugnance that is expressed in this affidavit which you just quoted refers to the quackery on the part of Berka and Sirany, who, not only in this field, but also in other fields, were sold on throwing their weight around. To me personally experiments on prisoners did not appeal.

Q. Do you feel in your opinion that a person incarcerated in a concentration camp or a prison is not in a position to volunteer for medical experiments?

A. It looks as if he could but his motive for so doing cannot be checked on and psychologically easily influenced persons might under certain circumstances apply to be subjected to such experiments when under other circumstances they would not. This is in a certain sense an exploitation of the situation in which these people find themselves, and the matter is still being debated.

Q. Now at these various conferences where it was decided to experiment at Dachau were you offered the opportunity to supervise the experiments?

A. This was not offered to me. Moreover, my attitude before then had been much too clearly expressed for any one to think of offering me that opportunity. Mr. Berka was a member of the committee and he was also in Dachau and watched the experiments.

Q. Was Mr. Berka offered the opportunity to conduct the experiments?

A. Whether he was offered that opportunity or whether he made active efforts to do this I don't know, but in my opinion he went there more or less on his own initiative.

Q. Then I submit to you, doctor, the reason for offering the opportunity to conduct the experiments to the defendant Reiglböck was simply to avoid having a prejudiced report made out by the two men who had produced or developed the Schaeffer and the Berka methods, is that a correct assumption on my part?

A. No, I do not believe that is a correct assumption because the director of the experiments was Professor Springer and he was a man whom Berka had proposed and an informed person. Berka, moreover, was in the commission; he was also at Dachau, so I cannot see where any sort of neutrality would still have been preserved here.

Q. After these meetings in May of 1944, did you hear any more about the experiments, that is, did you hear any more prior to the September meetings?

A. No, I heard nothing before the meeting.

Q. Tell now in this meeting which you have outlined which was in this affidavit which took place in October, 1944.

A. Yes.

Q. Wherein Reiglböck reported on the experiments, was that the first time that you heard anything about the manner in which the experiments were conducted?

A. I have seen a report but I cannot say today for sure whether this report reached me before or after.

Q. You mean before or after the actual meeting in the zoological gardens?



A. Yes, that is right.

Q. Did Reiglboeck report at that meeting about the experiments he performed on himself?

A. Do you mean whether he reported on it officially?

I don't know, but later he told about them.

Q. Did he tell you about them?

A. Yes.

Q. What did he tell you?

A. He said that by and large he had tremendous thirst but that he continued his regular work and I can't remember anything particularly remarkable in what he told us otherwise about this experiment on himself.

Q. Well did he go through the regular routine in his own experiments, in his self experiment of relying on sea water only throughout the entire experimental period or did he merely fool the experimental subjects by drinking sea water in front of them?

A. I didn't understand the question.

Q. Well as I understand it, the purpose of his experiment was to convince himself and to convince the experimental subjects that the experiments would not be dangerous, is that right?

A. That I cannot tell you. I can only state the fact that he told us that he had carried out an experiment on himself. Perhaps he wanted to reassure them and as I say, I don't know.

Q. How long did he carry on this self experiment, how many days?

A. That I can't tell you. I don't know.

Q. Well now in his report at the October meeting, didn't he outline the experiments that he conducted on himself?

A. I don't know. I can't tell you.

Q He didn't tell you how long he had experimented on the experimental subjects?

A Yes, he gave us the times for the individual group.

Q Well, did he say that in his experiments with the concentration camp inmates he went as high as 12 days and that some of the experimental subjects were experimented on twice with only a few days of rest in between the experiments?

A He did not say that he went as far as 12 days. That can only have been true of those treated with Mofatit and I believe that was only 10 days.

Q Did he tell you what symptoms developed during the course of the experiments?

A Yes.

Q Did the symptoms develop as outlined in your affidavit on page 7 of Document Book 5 wherein you state: "Dr. Beiglboeck also reported that the experiments had resulted in swelling of the liver and nervous symptoms. Delirium and mental disturbances also appeared". Did he outline that or do you wish to correct that?

A I don't want to correct it, I want to elucidate it.  
Swelling of the liver ...

Q You want to add to it?

A I would have to delete delirium. That was my mistake. When I said that I heard the nervous symptoms were increased — reflexes and sensitiveness of the muscles. And the mental disturbances were apathy and somnolence.

Q Well, do you report that some of these subjects developed hallucinations?

A That I do not know. I don't remember.

Q Didn't you emphatically tell Mr. McHaney in the course of one of your interrogations that Beiglboeck outlined the symptoms prevalent in these experiments?

A I never spoke to Mr. McHaney.

Q Didn't Mr. McHaney sit in on an interrogation wherein you were interrogated last fall.

A Can't remember that he did.

Q I will have to produce the interrogation, doctor. When you were interrogated last fall didn't you explain rather emphatically that the symptoms outlined by Beiglboeck indicated that these experimental subjects endured considerable suffering during the course of the experiments?

A The thirst experiments certainly weren't pleasant.

Q That is all you have to say about it?

A Yes.

Q Come now, doctor, you have been answering my questions quite well to this point. Now, you attended this meeting. Beiglboeck gave a report. He must have said more than that. Didn't he give you an outline of all the observations he made, didn't he tell you what symptoms appeared, didn't he tell you whether or not some of the experimental subjects attempted to drink water off the floor? Wasn't he more elaborate than I have gathered from your testimony?

A He didn't say that anybody drank water off the floor, no. Above that I couldn't make out a question from your last summary.

Q Now I want to know, wasn't he more elaborate than you have testified to thus far? Can't you tell us?

A Yes, yes, of course. That was a long time ago. It is extremely difficult to remember all these things and the consequences of one little word that might be wrong I have seen here.

Q Well, did he tell you, for instance, that it was necessary in the course of the experiments to tie one of the experimental subjects in bed because the experimental subject had succeeded in getting some water to drink? Didn't he tell you that?

A He didn't say that anybody was tied to bed, no.

Q Well, you recall in Document Book 5, the affidavit of Bauer which is on page 25. I anticipate an objection, Your Honor. This docu-

ment was admitted provisionally.

DR. STEINBAUER FOR BEIGELBOECK: I object to this question because this document was admitted only under the condition that a sworn certificate be submitted later. The Prosecution can, therefore, not use this document and I object to this question.

MR. HARDY: The document has been submitted provisionally, your Honor. The Prosecution was to obtain a jurate to the document. That has been obtained. The document is in due form and will be offered formally when the Tribunal sets aside a date for Prosecution to do so. I have the jurate, it states: "Before me, Lionel Shaffrow, special agent, CIC, appeared Ignaz Bauer, to me known and in my presence signed the foregoing statement written in the German language." Signed by Lionel Shaffrow, CIC. So that hurdle has been overcome and I should like to continue my cross examination.

DR. STEINBAUER: Thank you for the explanation.

BY MR. HARDY:

Q Now in this Document on page 26 of the Document Book, 4th paragraph, this witness states: "The thirst was so terrible that some patients did not hesitate to drink dirty water used for washing the floor. I saw one of these poor devils ....."

Do you have the page, page 26 of Document Book 5, Document NO-910, Prosecution Exhibit 140, the second page of the affidavit, the paragraph in the middle of the page commencing with the words "The thirst was so terrible that some patients did not hesitate....." It may well be — you have it? "The thirst was so terrible that some patients did not hesitate to drink dirty water used for washing the floor. I saw one of these poor devils falling on his knees, begging in vain for water. Doctor Beigelboeck was pitiless. One youth, who succeeded in getting some water to drink, was bound to his bed for punishment." Now, did Beigelboeck report about any of these conditions that he encountered during the course of his experiments?

A No.



Q Well, didn't you ask the all important question of the experimenter Baiglboeck - how well the experimental subjects cooperated and whether or not using concentration camp inmates would be advisable in the future? Weren't these questions important to a scientist and a man who was horrified at using concentration camp inmates?

A I don't understand the last part of your sentence.

Q I say, weren't you interested in knowing how well these experimental subjects cooperated?

A Yes, the Baiglboeck said that many of them drank water.

Q Did he tell you whether or not deaths occurred?

A He said that there was no death and that all patients recovered extraordinarily.

Q Did he tell you what he did with the subjects after he had completed the experiments?

A He said that he gave them a follow-up examination and at the end the patients got very good food, and that they were given specially good care for a certain time afterwards.

Q Well, do you recall in the affidavit by Pillwein where Pillwein stated that the patients were put back into the regular infirmary in a very weakened and damaged condition where they died after a short time?

DR. FELCKMANN: May I make an objection, Mr. President. Mr. Hardy is here asking the witness whether he remembers the affidavit of Mr. Pillwein. I believe this question is relevant. The issue is not to test the memory of the witness - whether he is able to remember an affidavit which was submitted four weeks ago or 8 weeks ago. Only that can be shown by these questions. The witness can say he can remember it or cannot remember it but that is completely irrelevant in the cross examination of this witness. I see therein only a means of bringing up for discussion prosecution documents which have already been submitted and I think that should be avoided.

MR. HARDY: I think the objection is very well taken, your

Honor. I will rephrase my question.

BY MR. HARDY:

Q Did Beiglboeck report at the meeting in October that patients were put back in the regular infirmary in a very weakened and damaged condition where they died after a short time as set forth in Pillwein's affidavit?

Court No. 1

A.- No, Professor Beiglboeck did not report that, and I do not believe that that is in the affidavit of Mr. Pillwein.

Q.- You will find it in the affidavit of Mr. Pillwein, which is Prosecution Exhibit AA 139, Document No. 912, in Document Book AA 5, Your Honor.

THE PRESIDENT : Counsel should exhibit those affidavits to the witness if he desires to question him.

BY MR. HARDY :

Q.- I have no further questions on the affidavit.

Did Dr. Beiglboeck tell you what nationality the subjects were that he used ?

A.- No.

Q.- Did he tell you whether or not they were volunteers?

A.- I remember that he said that they were volunteers in the experiment.

Q.- Did he tell you that Gypsies had been set aside by the Reichsfuehrer SS for use in the experiments ?

A.- I heard that Gypsies were used, but I do not remember from whom I heard that.

Q.- Do you have Document Book AA 5, Doctor ?

A.- Yes, I do.

Q.- Will you turn to Document No. 179, which is Prosecution Exhibit 135 ? It is on page 20 of the English, The letter from Grawitz, Reichsarzt SS, to Heinrich Himmler, concerning the experimental subjects to be set aside for these sea water experiments at Dachau. Would you kindly turn to the paragraph numbered with 2 stating the opinion of SS Gruppenfuehrer Gluecks from which I quote :

"Referring to the above letter, we report that we have no objections whatsoever to the experiments requested by the

Court No. 1

Chief of the Medical Service of the Luftwaffe to be conducted at the experimental station Rascher in the concentration camp Dachau. If possible, Jews or prisoners held in quarantine are to be used."

Now, Doctor, I am fully aware of the fact that you did not receive this letter and that here in this court room is the first time that you have seen it. However, does it appear to you that the language "If possible, Jews or prisoners held in quarantine are to be used" conveys the thought that these subjects were volunteers?

A.- I don't know how many prisoners there were in quarantine. I could imagine that if there were several hundred prisoners there, one could go and ask for volunteers. That conclusion is not compelling.

A.- Well, does the next paragraph, written by SS Gruppenfuehrer Haba convey to you that the subjects used were volunteers? The paragraph reads as follows:

"I agree with the proposal to conduct experiments on prisoners of concentration camps in order to evolve a method for making sea water potable. I propose taking for this purpose the racial gypsy half breeds."

DR. BELCKMANN: Mr. President, I should like to object to the continuation of this line of questioning. Mr. Hardy has already confirmed that Dr. Schoefer saw this document here in the court room for the first time. Therefore, question as to his interpretation of the contents of this document cannot be the subject of an examination of a witness. Just as well as this witness, or even better, the Tribunal can interpret what the letter means.

MR. HARDY: May I call to the attention of the Tribunal that this same objection was raised when I put - or maybe



Mr. McManey put the same questions to the defendant Schroeder and I put the same questions to Becker-Freysang, and, at that time, the Tribunal overruled the objection.

THE PRESIDENT : There is no recollection of the ruling of the Tribunal on any similar question, but it seems that the answer would be merely a supposition on the part of the witness.

MR. HARDY : The question I am driving at, Your Honor, is to ask the witness whether or not, if he had knowledge of the facts elicited in this letter, would he more strenuously objected to the experiments on the inmates at Dachau.

JUDGE SEBRING : Why don't you ask him that, Mr. Hardy ?

MR. HARDY : I'm building up to the question, Your Honor.

Witness, will you kindly answer that question.

THE PRESIDENT : Propound the question again to the witness.

MR. HARDY : If you had received this letter, would you have more strenuously objected to the experiments at Dachau ?

DR. PELCKLMANN : I should like to object again. The prosecutor himself has said that he knows that the witness did not get the letter. Therefore, it is unnecessary to ask whether he did get the letter.

THE PRESIDENT : Objection sustained.

BY MR. HARDY :

Q.- Dr. Schaefer, when you executed your affidavit, which is Document NO-474, Prosecution Exhibit 131, was that submitted to you in the German language for signature ?

A.- Yes.

Q.- That was on the 23rd of October, 1946, was it not ?

A.- Yes, that's what it says. It's probably right.

Q.- Did anyone compel you to sign this affidavit ?

A.- No.

Q.- Did you have the opportunity to make corrections therein ?

A.- Yes. May I finish answering your question ?

Q.- Certainly.

A.- On the unimportant points it was very easy, but on the more important things it was more difficult and, to wholly oppose the arguments of the interrogator was difficult. I, at the moment, thought it was true.

Q.- You, in fact, did make a considerable number of corrections in the original, did you not ?

A.- Yes, in the original, Yes, I did make a number of corrections.

Q.- You were under oath when you executed this affidavit ?

A.- Yes.

Q.- Doctor, now in summation, you were in attendance at the conference on the 19th of May, were you not ?

A.- Yes.

Q.- At that conference you submitted objections to the testing and use of the Berke method ?

A.- Yes.

Q.- You attended the conference on the 20th of May ?

A.- Yes.

Q.- And you attended a conference in October, 1944, when Dr. Beiglbach reported the results of his experiments ?

A.- Yes, but I was ordered to attend all three. I was ordered to attend all three meetings.

Court No. 1

Q.- I understand that.

I have no further questions, Your Honor.

THE PRESIDENT : Any further questions to be propounded to this witness in connection with the cross examination ?

REDIRECT EXAMINATION

BY DR. FELCKMANN :

Q.- Dr. Schaefer, the prosecutor asked you whether you demonstrated your method among others also to Professor Schroeder, in the presence of Dr. Becker-Freyseng. Then, on the basis of this demonstration, was everything done - all steps taken for the introduction of Wofatit in the Luftwaffe ?

A.- You mean my demonstration in December, 1943, to Professor Hippke ?

Q.- Yes.

A.- Not Professor Schroeder. Yes, of course.

Q.- Orders were given to do everything to introduce this method ?

A.- Yes.

Q.- The prosecutor spoke of your opposition to the experiments and said that there was only a passive resistance because you saw an opportunity in these experiments to make it quite clear, by way of experiment, how good your method was and how poor the Berke method was. He said that, didn't he ?

A.- Yes, he did.

Q.- First, I should like to ask you, was your resistance passive ?

A.- No, it was not passive. There were violent alterations.

Q.- But you didn't have any success with your resis-

tance. Therefore it must have been weak.

A.- One couldn't say that. After all, I was only an Unterarzt. I could not do much against a group of university professors, world famous men. I couldn't do much against my superiors with the highest military ranks.

Q.- And the possibility that you wanted to bring out through these experiments that Wofatit was good and that Berkatit was bad, that would probably have existed only if experiments had also been conducted with Wofatit?

A.- Yes, that idea is divergent....

Q.- (Interrupting) Just a minute, just a minute. Answer my questions concretely.

The possibility of contrasting these two methods in an experiment and proving how good your method was could have existed only if your method had been included in the experiment?

A.- Yes.

Q.- And did you do anything to have your method included in the Dachau experiment?

A.- No, nothing at all.

Q.- On the 19th or the 20th, at these meetings, was anything said about introducing a series of experiments with Wofatit?

A.- No, nothing.

Q.- At the meeting of the 25th of May, while you were present, was anything said about introducing a series of experiments with Wofatit?

A.- No.

Q.- Do you consider it possible that the introduction of a Wofatit series of experiments was ordered after the 25th



Court No. 1

of May on the basis of deliberations of the so called commission ?

A.- That is possible.

Q.- And is it possible - the defendant Becker-Freyseng testified this - is it possible that a series of experiments with Wofatit is exactly the same things as a series of experiments with fresh water ?

A.- That is not only possible, but that is a certain fact.

Q Then summing up all these considerations which we have just elicited in individual questions, what do you have to say to the assumption of the Prosecutor that you had a personal interest in the execution of the Dachau experiments, would you reject that assumption?

A Yes, completely. In this connection I should like to remind the Tribunal of Exhibit 37, the testimony of the Witness Pohl where Pohl says that no mention was ever made of the introduction of a Wolfatit series of experiments. I should like to say that if I had had the slightest interest in this I would have taken an active interest in the experiments, and how they were arranged. Professor Eppinger had been involved by Berkatit. He was in charge of experiments for Sirany. The experiments showed what the method of the execution of the experiments, what significance it has and the objectivity of results can improve on the method of experimentation.

Q On the 19th of May you opposed Berkatit, you also objected to undertaking experiments?

A Yes.

Q But experiments on prisoners had not been mentioned yet?

A Yes, that is right.

Q For what reasons did you object to experiments on the 19th of May?

A Because I considered them superfluous.

Q Did you have any reason to refuse to obey the order to attend on the 20th of May?

A No, there was no reason to do so.

Q Was there any reason you had to know that experiments would be performed or would at least be discussed, experiments on concentration camp inmates?

A No, I did not know that.

Q If you did not particularly want to go to this meeting on 20 May why was that?

A I was annoyed because the other people refused to understand.

Q You thought the whole thing was superfluous, the discussions of experiments?

A Yes.

Q Then on the 20 of May as Becker-Freysong and yourself have testified, the idea of experiments on prisoners was brought up for the first time?

A Yes.

Q What feeling did you have then aside from your consciousness that the experiments were superfluous?

A I felt that it was unpleasant to carry out experiments on prisoners.

Q Did your antipathy extend only to performing experiments on concentration camp inmates or were you then are you now convinced that experiments on prisoners should not be performed at all, either on concentration camp prisoners, or prison inmates, prison inmates in Germany or America or any place else in the World?

A Yes, that was my conviction then and it is my conviction now.

Q Now, after the 20th of May did you do anything toward expressing once more your deviating opinion?

A Yes.

Q What did you do?

A I talked to Becker-Freysong about it.

Q You telephoned to him?

A Yes.

Q And was your telephone conversation included in the affidavit Exhibit 19 of Mrs. Keenig of which I have submitted, and is it described correctly?

A Yes, it is described correctly?

Q What caused you to attend the conference of May 25th, first externally there was a military order, second what considerations, what inner attitude did you have at that time?

A The experts were to consult with each other. Professor Eppinger, Professor Huebner and Professor Natter were to decide whether experiments were necessary at all.

Q Your medical opinion was settled?

A Yes, and I assured for sure that these three gentlemen would realize that Berkatit was completely useless.

Q And then in the meeting at least so far as you were present, until you were separated from the others because of the air raid, you were seriously disappointed in this opinion?

A Yes, I was quite bitter and I lost my faith in -- I will have to speak generally, -- my faith in scientific judgment.

Q Do you think that these gentlemen gave their opinion against their better knowledge?

A No, no, why should they do that.

Q The reason I ask is that the Prosecutor has stated that Professor Eppinger committed suicide, and as the Prosecution said apparently because he was aware of his guilt; therefore, I ask you do you know whether all the other gentlemen are still alive?

A Yes, the others are still alive, and are still working as professors in their fields.

Q They have not committed suicide?

A No, they have not committed suicide.

Q So apparently they are not suffering from a guilty conscience?

A No, apparently not.

Q If experiments were performed with Wolfatit was your permission required to perform experiments with Wolfatit?

A No, one could get the Wolfatit from the I.G.



Q Can you imagine that the permission of a Unterarzt would have to be obtained?

A No, that is quite fantastic.

Q Can you imagine that the experiments with Walfatit were performed to see what effect Walfatit or rather the sea water treated with Walfatit had?

A No, there was nothing to be seen.

Q Mr. Hardy asked you about what Professor Biengelboeck reported concerning the experiments in Dackau; I assume it escaped your attention that Mr. Hardy always asked did Professor Biengelboeck ask you and you answered repeating a great deal of what Professor Biengelboeck reported about the experiments; did you mean to say that Professor Berkatit told you all that personally or that he told that in his lecture?

A No, I want to say that he said that in his lecture, at least most of it.

Q Professor Biengelboeck spoke to you only briefly?

A Yes, only briefly.

DR. PELCHER: I have no further questions.

BY DR. MARK (Defense counsel for Professors Schroeder and Becker-Freyseng.)

Q Dr. Schaefer, you said in your cross examination that Professor Anthony had given you orders to go to Vienna and look at Sirany's experiments; do you know exactly whether Professor Anthony gave you this order on his own authority or whether he passed this order to you on behalf of the department chief?

A I assume that he gave it to me on behalf of the department chief.

Q Can you remember who signed the travel order and the military ticket for this trip?

A No, I cannot recall that.

Q You said that you warned Prof. Schroeder and Dr. Becker-Freyseng that Barkatit was dangerous; now did you warn them about the danger of Barkatit in practice of sea distress or the danger in experiments?

A This warning referred of course to cases of distress at sea.

Q Then I should like to ask you something else, the Prosecutor asked you whether in the meeting when it was decided to perform the experiments in concentration camps, these are the words of the Prosecutor, "whether you were offered to supervise these experiments or to carry them out yourself"; in the three meetings on the 19th, 20th and 25th of May was it decided to carry out experiments in concentration camps - the emphasis on the word "decided"?

A No, that was not decided.

Q On 19 May 1944 was it mentioned at all that experiments were to be performed on prisoners?

A No.

Q On 20 May 1944 at the meeting, what was said; was a decision reached at this meeting?

A No, the suggestion was made, i.e. the possibility was

brought up.

Q On the 25th of May, 1944, were prisoners mentioned at all or was not everything else to be tried first to carry out the experiments; for example in the Luftwaffe agencies, in the Military Medical Academy, etc.; were not all other possibilities to be exhausted first?

A I was present at only a part of this meeting on the 25th, as long as I was there nothing was said about prisoners, that is shown by a few affidavits, too. The possibility of carrying out the experiments in Brunswick seemed to be the predominant idea.

Q You can remember that Brunswick was discussed, the Luftwaffe hospital in Brunswick?

A Yes, that is right.

Q Do you remember any other agency; perhaps the Military Medical Academy of the Luftwaffe?

A Yes, I remember the Military Medical Academy.

Q You remember that too?

A Yes.

Q It was not then said that the carrying out of experiments in camps was the primary idea?

A No, no.

Q No further questions.

DR. STEINBAUER: (Counsel for the Defendant Beiglboeck).

Q Witness, the Prosecutor examined you as an expert, I ask you, have you worked on the effect of sea-water on human beings or have you only concerned yourself with the question of removing the salt?

A I worked primarily on the removal of salt.

Q Then you have no practical experience?

A No.

Q Your statements about the loss of water with 500 ccsm and 1000 ccsm with various kidney concentrations are then purely an as-

sumption from your part?

A That is my personal opinion gained from literature, reports and theoretical opinions of my own.

Q Then you cannot say that this opinion of yours is absolutely scientific and accurate?

A No, of course I cannot ascertain that 100%.

Q No further questions.

MR. HARDY:

Q I have two further questions, Your Honor, if there are no further questions by defense counsel.

THE PRESIDENT: Does defense counsel desire to propound any further questions to the witness?

DR. PEICKMANN: At the end, I have a remark to make. I have no further questions to the witness.

RE-CROSS EXAMINATION

BY MR. HARDY:

Q When did you learn for the first time, Dr. Schaefer, that sea water treated by your method was to be employed in Dr. Reiglboeck's experiments?

A As far as I know now that was in October.

Q In other words, you did not know about it until after the experiments had been completed?

Q No one told me anything about it.

A They employed your method and never informed you?

A It was not necessary. I did not have the material and it was not generally known that I was connected with this method. The I.G. Farben industry was in contact with the technical office and with the Navy; whether the gentlemen knew, I don't believe they did.

Q Did you develop this Schaefer method of rendering sea water potable in your capacity as an Unterarzt in the Luftwaffe or in your capacity as an employee of the I. G. Farben?

A In my capacity as Unterarzt in the Luftwaffe.



Q Have you ever had any clinical training, Doctor?

A Yes, after I took my state examination, I was for about one year an interne and then I was an assistant for one year and in 1938 I had to leave the clinic.

Q I have no further questions, Your Honor.

DR. PEICKMANN: At the end of my opening statement many weeks ago I made application that the defendant Schaeffer be released from custody and not subjected to the trial. I am of the opinion that this is a case where according to the practice of American and English Courts, the Court is able now to accede to such a request, and I make the same application once more.

THE PRESIDENT: The Tribunal will consider the motion by counsel for defendant Schaeffer for a discharge at this time. The Court will take the motion under advisement and announce its ruling on it in due time.

The Tribunal will now be in recess until nine-thirty o'clock in the morning.

DR. GAWLIK: Mr. President, the Tribunal had ordered that tomorrow the defendant Hoven say remain away. I made this application on the assumption that the witness Dorn would be examined only Friday, but since the witness Dorn is being examined tomorrow, I would like to cancel application and have the defendant Hoven present tomorrow.

THE PRESIDENT: Very well, counsel.

THE MARSHAL: The Tribunal will be in recess until nine-thirty in the morning.

(The Tribunal adjourned until 9:30 5 June 1947).

Official Transcript of the American Military Tribunal  
in the matter of the United States of America, against  
Karl Brandt, et al, defendants, sitting at Nurnberg,  
Germany, on 6 June 1947, 0930, Justice Seals presiding.

THE MARSHAL: Persons in the courtroom will please find  
their seats.

The Honorable, the Judges of Military Tribunal 1.

Military Tribunal 1 is now in session. God save the  
United States of America and this Honorable Tribunal.

There will be order in the courtroom.

THE PRESIDENT: Mr. Marshal, will you ascertain if the  
defendants are all present in Court?

THE MARSHAL: May it please Your Honor, all defendants  
are present in Court with the exception of the defendant  
Gebhardt, absent because of illness.

THE PRESIDENT: The Secretary General will note for  
the record the presence of the defendants in Court, save  
the defendant Gebhardt, who will be excused from attendance  
today pursuant to certificate of the Captain of the  
Medical Department in charge of the prisoners, as to the  
illness of defendant Gebhardt. The Secretary General will  
file the certificate for the record.

Counsel may proceed.

DR. GAWLIK: (Counsel for Hoven): With the permission  
of the Tribunal I would like to call the witness Paul  
Friedrich Dorn to the stand.

THE PRESIDENT: Will you please repeat? I did not  
have the earphones on.

DR. GAWLIK: With the permission of the Tribunal I  
would like to call the witness Paul Friedrich Dorn to the  
witness stand.

THE PRESIDENT: Pursuant to agreement between counsel  
approved by the Tribunal, the Marshal will call the witness

Paul Friedrich Dorn a witness for defendant Haven.

The Tribunal will take under advisement for further consideration the motion made by counsel for defendant Schaefer to dismiss the charges against him. Ruling on that motion will be passed until the conclusion of the testimony, at least.

PAUL FRIEDRICH DORN, a witness, took the stand and testified as follows;

THE PRESIDENT: Hold up your right hand and be sworn, please. Will you repeat this oath after me: I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.  
(The witness repeated the oath.)

THE PRESIDENT: You may be seated. Counsel may proceed to examine the witness

DIRECT EXAMINATION

BY DR. GAWLIK:

Q. Witness, your name is Paul Friedrich Dorn, is that correct?

A. Yes.

Q. When and where were you born?

A. The 16th of February 1916, in Winzheim.

Q. You are a German national, is that correct?

A. Yes.

Q. Please, what is your present address?

A. Eschwege, An den Anlagen, 14 a.

Q. What is your present profession?

A. Taxi service and renting of Motor cars.

Q. For what reason were you put into the concentration camp?

A. Before the war I was the proprietor of a small transport business. In 1940 my truck was requisitioned



by the German Wehrmacht and I was instructed to work as a workman in an armaments factory. In August of 1940 I refused to do this work and was arrested by the Gestapo of Leipzig. The judicial proceedings against me for refusing to work were squashed, and I was turned over to the concentration camp of Dachau.

Q. How long were you there?

A. From September 1940 to to 20th of December, 1940.

Q. Where did you go on the 20th of December 1940?

A. To the concentration camp of Buchenwald near Weimar.

Q. What commando were you in in the Buchenwald concentration camp?

A. First of all I was employed in the quarry.

Q. How long were you employed there?

A. Until 16 January 1941.

Q. What happened then?

A. Then because I was sick I was sent to the Prisoners Hospital where a necessary gland operation was carried out on me.

Q. And what happened then?

A. For 8 days I was an out-patient and then I went back to the hospital for a second operation.

Q. And what happened after the operation?

A. After the operation I at first received an easier job and was employed in the prisoner's kitchen for light work.

Q. How long were you there?

A. Until March 1941.

Q. Where did you go then?

A. I was put into the prisoner's hospital and since March 1941 I was used there as a clean-up man.

Court 1.

Q. How long did you do this cleaning work?

A. Roughly one year.

Q. What did you do then?

A. I was a male nurse.

Q. How long were you a male nurse?

A. Until 20 September 1943.

Q. What happened then?

A. After Dr. Hoven was arrested and I lost the support I had had in Buchenwald, I was transferred to Auschwitz.

Q. Then, witness, it is correct that from March of 1941 until 20 September 1943, you were in the prisoner's hospital of the concentration camp of Buchenwald?

A. Yes.

Q. During this time who was camp doctor?

A. Until 1942 Dr. Blanke as far as I know and later in 1942 Dr. Hoven was appointed camp doctor.

Q. Do you know when Dr. Hoven was arrested?

A. I know that very well, on 12 September 1943.

Q. Do you recognize Dr. Hoven among those in the dock?

A. Yes.

Q. Please state which of these persons is the former camp doctor, Dr. Hoven.

A. In the last row, the third man from the left.

Q. Perhaps the witness might be allowed to step forward and point to Dr. Hoven.

THE PRESIDENT: The witness may step to the dock and examine the defendants and identify the Defendant Hoven if he can.

THE WITNESS: Very well.

(THE WITNESS STEPS TO THE DOCK AND POINTS TO DEFENDANT HOVEN.)

Court 1

THE WITNESS: Here.

THE PRESIDENT: The record will show that the witness when stepping in front of the defendant's dock has correctly identified the defendant Hoven.

BY DR. GAWLIK:

Q. Then you know very well what the conditions were in the camp hospital in the time during which Dr. Hoven was the camp doctor?

A. Yes, I do.

Q. Are Blocks 44 and 49 or Block 46 known to you?

A. Yes.

Q. How is it that you know of them?

A. When Block 46 was being used as an experimental station I was there a few times and had to take drugs and medicine from the main hospital to this block. However, at Block 46 I had no tasks to perform.

Q. What happened in Block 46?

A. I know that typhus experiments were performed there.

Q. Who was the chief of Block 46?

A. The then Sturmbannfuhrer Dr. Ding.

Q. What functions did Dr. Hoven perform in Block 46?

A. Dr. Hoven had no medical functions whatsoever at Block 46.

Q. Did the defendant Dr. Hoven carry out any experiments in Block 46?

A. So far as I know Dr. Hoven did not have the right to do that since the experiments were conducted on orders from Berlin and during the first experimental series even SS members were strictly forbidden to enter that Block.

Q. Who did carry out these experiments in Block 46?

A. So far as I know only Dr. Ding.

Q. How do you know that?

Court 1.

A. I had a friend who was a Jewish fellow and a nurse and I talked to him daily about what was going on in Block 46.

Q. Who was this Jewish nurse?

A. I can only remember his family name - Jellineck.

Q. Do you believe that this man is worthy of credence?

A. I knew Jellineck as a very good friend and a very honest person.

Q. What do you know about the experiments that were carried out with lice?

A. I know that at the end of 1942 cages of lice, infected lice, arrived in Buchenwald for the first time. Dr. Hoven conferred with the most important prison nurses of Block 46 and afterwards these lice were destroyed since the danger of epidemic was too great for the whole camp.

Q. What do you know about the second shipment of lice that arrived at Buchenwald?

A. I know that this second shipment was brought to Buchenwald by a higher Wehrmacht officer. In the presence of this Wehrmacht officer these lice were to be put on the prisoners immediately. This would have constituted a great danger not only for the prisoners in the camp, but also for the SS members in the camp. Therefore one was very eager to remove this Wehrmacht officer from Block 46 as quickly as possible. Also this second shipment of lice was destroyed in the presence of the camp doctor.

Q. What do you know about the way in which this Wehrmacht officer was removed from the camp?

A. From a telephone conversation that took place between Block 46 and the prisoner's hospital, I know that Dr. Hoven used a trick and told this officer that if he did not



Court 1.

go back to Weimar with the truck that was then made available to him, he would have walk that distance in the evening, since there were no other means of transportation between Weimar and Buchenwald.

Q. Was the experiment discontinued immediately after the Wehrmacht officer left Block 46?

A. Yes, according to what I learnt from Jollineck and a nurse from Block B who was accomodated there the lice were destroyed as soon as the Wehrmacht officer had left.

Q. Who was this nurse; what was this nurse's name from Block B Buchenwald whom you just mentioned?

A. I cannot give you his name, as I had very little to do with him.

Q. What do you know about Dr. Hoven's visits in Block 46?

A. I know that Dr. Hoven did not visit Block 46 for medical reasons, but I know very well that Dr. Hoven had set up in this isolated block a tailor shop and a shoe shop and he did so since it was already very difficult at that time to have shoes and uniforms repaired or to get new ones. For this reason Dr. Hoven had this work done illegally at this Block because the patients were accomodated there for this purpose. They were not running the danger of being suprised by any SS officer and punished.

Q. What can you tell the court about the prisoners who were working in these shops?

A. The prisoners who were employed there by Dr. Hoven with the understanding of the illegal camp management, who were hidden here in these shops and they were people who had drawn the attention of the SS camp management in some

Court 1.

way and were therefore to be removed from the camp on very poor transports or were to be liquidated.

Q. Was Dr. Hoven interested in the typhus experiments in Block 46?

A. I must honestly state here that I never considered Dr. Hoven to be a good doctor and I did not believe he ever had any medical interest or any interest in experiments.

Q. Who choose the experimental subjects for Block 46?

A. The general instructions for the selection of these persons came from the R.S.H.A. in Berlin. These people were selected from the so-called political department by two Hauptscharführers on special detail, namely Serno and Leclair.

Q Did Dr. Hoven participate in this selection?

A Dr. Hoven took part in this selection only when he wished to protect a prisoner known to him from being sent to this block; or, if political prisoners were there who were of great importance to the camp, then in that case the capo of the dispensary appeared before Dr. Hoven and asked that these important persons should not be sent to Block 16 but that they should be replaced by valueless criminal elements.

Q Did Dr. Hoven work in conjunction with the so-called illegal camp management?

A I believe Dr. Hoven was the first SS member to whom the illegal camp management dared to come and could dare to take into their full confidence with no fear of being denounced to the camp commander in an instant.

Q To clarify that point please tell the Tribunal now what the political department was, that selected the prisoners.

A The political department was a special Kommando within the Kommandantur of the concentration camp. It consisted of Hauptscharfuhrer Serno and the Unter or Obersturmfuhrer Leclair.

Q Were these members of the Gestapo?

A Yes, they did not wear the regular SS uniform but had other designations of rank.

Q I shall now put to you the testimony of Roehild. This is the transcript of 14 January 1947, morning session, page 1632 of the German record. May my secretary carry the transcript to the witness?

THE PRESIDENT: Yes.

Q Please read. The prosecutor addressed the following question to the witness Roehild: "Did Dr. Hoven participate in the selection of the patients who were subjected to the typhus experiments?" Roehild answered this question in the affirmative. Further, the witness Roehild stated: "If an experimental series was in prospect a certain number of

prisoners was demanded. This selection was made on the basis of the card index file that we had in the office." What do you have to say about that?

A I should like to answer the second question first. Roemhild is probably referring here to the exchanges that Dr. Hoven frequently made, accepting substitutions he frequently made, because Dr. Hoven did not take part in the actual selection; and now I should like to ask counsel to read that first question to me again.

Q The first question reads: "Did Dr. Hoven participate in the selection of prisoners who were subjected to the typhus experiments?"

A No, he did not.

Q Do you know whether the illegal camp management drew up lists for the substitution of political prisoners for inferior prisoners.

A Of course, all the prisoners employed in the hospital knew when the next experimental series was to begin. The illegal camp management already had ready for substitution all the persons in the camp who had behaved wrongly in some way or who had been guilty of any sort of betrayal or anything of that sort.

Q Did Dr. Hoven concern himself about these substitutions or did he leave that up to the illegal camp management?

A In every respect Dr. Hoven was given great confidence by the illegal camp management and vice versa and, in general, paid very little attention to what the illegal camp management did.

Q You, witness, are referring to the illegal camp management now, are you not? You mean the illegal camp management of the prisoners themselves?

A Yes.

Q Did Dr. Hoven carry out the charts of the persons to be used in the Typhus experiments on the explicit wish of the illegal camp management or, rather, did he supervise this selection for that reason?

A I know of no case in which Dr. Hoven, without the knowledge of the illegal camp management, undertook anything which could do harm



to any prisoner and which could lead to his being brought to Block 46.

Q Did Dr. Hoven take on this supervisory activity in order to prevent persons other than SV's and SV's from being used — namely, professional criminals?

A The basic orders from Berlin stated that only German professional criminals and persons in preventative custody were to be used for these experiments. However, the SS camp management of the camp always tried to have political prisoners who had been in the camp for a long time also included among these persons to be used in these experiments in block 46 and it was only because of the alertness of Dr. Hoven in collaboration with the illegal camp management that these political prisoners I just mentioned had managed to survive their stay at the camp.

Q How is it that you know this?

A I occupied a pretty confidential position at Buchenwald and consequently numbered among my friends the members of the illegal camp management and in this way I found out many things which other inmates could not find out and never did.

Q Were non-German prisoners used for such experiments?

A I have already said that the orders from Berlin said that only prisoners, criminals and persons in preventive custody were to be used in these experiments.

Q I now put to you Document NO-1063. This is the file for the office for the locating of war crimes in Amsterdam. According to page 14 of the German translation, a Dutchman by the name of Von Nerven stated that he was infected with typhus by Dr. Hoven. What can you say about that?

A I never knew of a Dutch citizen being accommodated in Block 46 because in the camp we had a Dutch painter by the name of Harry Pieck who had an enormous influence on Dr. Hoven. This Dutch politician certainly would never have permitted a Dutch comrade of his getting to Block 46. I can, however, state with certainty that a group of 80 Dutch prisoners was given injections that were perfectly harmless in another block of the camp. These men had no work to do, were given double rations and the only regulation they had to submit to was that their temperature was taken three times a day. These injections were entirely harmless. None of these persons could have fallen ill of these injections or could have suffered any physical injury.

Q Please turn one page back, to page 13 of the Document NO-1063. According to this Vondelink states that Dr. Hoven is responsible for the medical experiments carried out on prisoners in Block 46. I ask you, did Vondelink have the necessary knowledge and information in order to judge who was responsible for the experiments in Block 46?

A I must say first of all that I do not know this Vondelink. A prisoner who was not employed in the prison camp knew nothing whatsoever of what took place in the prison hospital and in block 46 because the prisoners could enter the camp hospital only with permission of the camp commandant and they could not enter any wards at all. Vondelink probably heard this as a rumor in the camp and repeated that

rumor in good faith. I believe that if I myself had not been employed in the hospital and if I were asked today who was responsible for the conditions there I also probably would have said the camp doctor on duty.

Q Can you answer the question whether Vondelink was employed in the hospital?

A He certainly was not employed there. Otherwise I should know him.

Q Do you know of the action 14-V-13?

A Yes.

Q How many transports left the camp under this action 14-F-14?

A One, namely, at the end of 1941.

Q Where did it go to?

A The prisoners and probably also Dr. Hoven did not know what the real destination of this transport was. However, after some time the property and clothing of these prisoners were sent back and this allowed us to conclude that this transport had gone to Bernburg. The prisoners must have been liquidated there, otherwise their personal effects would not have been sent back to Buchenwald, and curiously enough it was at this moment that the numbers 14-F-13 became current among us prisoners.

Q For what reasons were no further transports sent out within the framework of action 14-F-13?

A As far as I know all Jewish inmates of the camp were to be removed from the camp in the subsequent transports. The illegal camp management immediately took measures and all the Jews there were thenceforth listed as mason apprentices under the leadership of one Robert Seibert from Dresden, who treated these Jews very well.

Q Who prevented these further transports?

A The illegal camp management in collaboration with Dr. Hoven, because the second transport that was set up was declared by Dr. Hoven to be in no condition to move and was thus recalled.

Q Can you give the Tribunal information regarding further measures that Dr. Hoven took in order to prevent the carrying out of action 44-F-137

A I can only say that Dr. Hoven, whenever transports were to leave, always conferred with the illegal camp management and with all the prisoners in the camp who were of any consequence and who occupied any illegal office and approved and brought about the necessary counter measures.

Q Is it true that the defendant Hoven, only in order to prevent such transports, undertook the so-called anthropological measurements of prisoners?

A Yes, I knew about that, there was an SS Oberarzt in the camp who was interested in this sort of measurement, and these measurements were consequently undertaken. If the SS camp management had known that these measurements were really protecting many very interesting Jewish types, anthropologically speaking, then they would have been stopped, because many Jewish patients had been hidden in the camp for years.

Q Is it correct that the defendant Hoven accommodated in Block 46 and 50, persons who were threatened by the action 44-F-13, particularly Jews?

A Yes, I am in a position to give you a few names. For example, the Jewish prisoner August Cohn, whom I met recently in Kassel, where he was the Public Prosecutor in the Denazification court; also of the nurse Jellineck, also a prisoner named Kurt Glaeser, and then in Block 50 there was a prisoner named Hoegster. I believe there was quite a number of Jewish prisoners who were removed from the action in this way.



Q. Can you tell the Tribunal how many Jews there were in Buchenwald when you left in September 1943 were still there?

A. Precise figures I cannot give you, of course, but I believe I am not overestimating if I say there were 1800 to 2000.

Q. Did the defendant Dr. Hoven ever examine prisoners intended for transport to Bernburg?

A. No, because these transports were not judged on a medical basis. I know that the first transport that left was arranged for from Berlin and that Leclair simply put his OK on it. These prisoners were not taken to the camp hospital before they were put on the transport.

Q. I now put to you Roemhild's testimony. This is page 1634 of the German transcript. Roemhild said that the two camp doctors, including Dr. Hoven, examined Jews with reference to their ability to work, that lists were drawn up of those who could not work and those were sent to Bernburg. Now, what do you have to say about that?

A. I can only say that there were very frequent examinations on all the Jewish prisoners because the Jewish prisoners received only half the rations that we received. For this reason Berlin, or perhaps the camp commander, was particularly interested to know just what the physical condition of these people on half rations was. But, these examinations had nothing to do with the transports because as it happens for more than a year I had to be present during these examinations, or rather during the assembly of the transports and consequently I was always informed by Dr. Hoven where the transports were going and who was on them.

Q. These examinations with reference to the prisoners' ability to work, were they carried out by the camp doctor?

A. No, usually by inmate nurses.

Q. You spoke of half rations that the Jewish prisoners received. Is it true that the illegal camp management with Dr. Hoven's support illegally supplied these Jews with food contrary to explicit orders?

A. I do know that the Jewish blocks were supported to a very large extent from the camp hospital.

Q. Do you know Roemhild?

A. Yes, I do.

Q. How long have you known him?

A. I have known Roemhild from that moment on when I was employed in the camp hospital.

Q. What did he do there?

A. From 1942 to '43 Roemhild was the so-called treasurer of the camp hospital. That is to say he took care of the prisoners' money there and in 1943 -- and this took place very shortly before Dr. Hoven's arrest, Roemhild was used as a clerk for the doctors.

Q. Was Roemhild as hospital treasurer present at examinations?

A. No, never.

Q. Consequently, does Roemhild have the necessary knowledge in order to be able to make statements regarding events of this sort in 1943?

A. No, he does not because before Roemhild was camp hospital treasurer he was for most of the time absent from the hospital in the finance office or at the quartermasters and only at very short intervals he was in the hospital itself.

Q. What do you know about the killing of informers in the camp?

A. I know that in Buchenwald prisoners, who did not obey the rules set up by the illegal camp management and who worked with the SS denouncing other prisoners and thus brought about their deaths, were liquidated by Dr. Hoven in collaboration with the illegal camp management. The case I am speaking of now concerns a former White Russian General by the name of Rustiner Kuschnarev, a racial German by the name of Bulla, and three German professional criminals. These men had human lives on their conscience. Life in the camp was very rugged and the prisoners were very bitter toward these traitors. Consequently, they had to disappear from among the living.

Q. Tell the Tribunal what the illegal camp management's tasks and activities were?

A. The illegal camp management was an institution set up by the prisoners themselves for their own protection. In the course of time it developed to a strong illegal organization which saw to it that measures taken by the SS camp commander were sabotaged in every possible way and the camp was kept free of traitors and informers.

Q. Describe the activities of the informers and traitors on the community in the camp.

A. Let me first take up the case of Kuschnir Kuschnarev, the White Russian General, because that was probably the most prodigious drama of treason that ever took place in Buchenwald. When Kuschnir Kuschnarev was in Buchenwald large numbers of Russian prisoners of War were turned over to the camp Buchenwald. The assignment that Kuschnarev had from the SS camp commander was to associate with these Russian prisoners of War and to pump them regarding their opinions and to find out if there were any Red Army officers among them and, if so, to inform the camp commander, also information on all prisoners who worked in connection with these Russian prisoners or who naturally sympathized with the Russian prisoners on the basis of their Communistic past. The prisoners whom Kuschnir Kuschnarev denounced were taken by the Oberscharfuhrer Beier, Tanfratshofer, Commander of the Laundry Schaefer, Kitchen Chief Schmidt, Gerno, Leckair, or either they were shot in the stable or hanged in the crematorium. I can assert here that it was an incredibly large number of persons whose death Kuschnir Kuschnarev caused.

THE PRESIDENT: Witness, counsel, the Tribunal is about to take its recess. The witness may complete his story after the recess.

JUDGE TOMS: If the Tribunal will permit me to interrupt just a moment. This is Judge Toms, presiding in Tribunal II. One of the defendants in this case has been authorized as a witness in Case IV now being tried in Tribunal II and, if convenient, I would request that this defendant

be excused at this time and the Marshal be directed to conduct him to Tribunal II for the purpose of testifying for the defense.

THE PRESIDENT: Who is the defendant before this Tribunal?

JUDGE TAMS: The witness is Rudolf Brandt.

THE PRESIDENT: Judge Robert M. Tams, presiding judge of Tribunal II now in session, having requested that the defendant Rudolf Brandt be excused from attendance before this Tribunal for a short time in order to testify before Tribunal II, the Marshal will see that the defendant Rudolf is conducted to Tribunal II to testify as a witness before that Tribunal, to be returned to this Tribunal when his testimony is finished.

JUDGE TAMS: Thank you very much.

THE PRESIDENT: The Tribunal will now be in recess for a few minutes.



THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Just a moment. The Secretary General will note for the record the absence from the Tribunal of defendant Rudolf Brandt who has been excused to testify before Tribunal No 2 which is now in session. He was excused and his absence from the Tribunal will in no way prejudice his case.

Counsel may proceed.

Q. Witness, did the activity of stool pigeons consist particularly of accusing prisoners wrongly?

A. It has happened repeatedly that people because of intrigue by these traitors with the SS Camp administrators were reported and due to this type of treason were severely punished and lost their lives.

Q. Could you tell the Tribunal an example of that type what it is at the special company of prisoners?

A. In 1942 some criminal prisoners wanted to get the camp administration over to their side and they went to the camp leader and told him that political prisoners in the camp had a radio station and were thus listening to enemy stations. The camp administration reacted immediately and relieved all political prisoners who had influential positions, such as capos and block leaders, and prisoners in the hospital such as vice-capo and many male nurses and they formed a special company. It was the task of this special company to work in the garden, under Sturmfuehrer Dombeck and cart soil all day long, and all this work had to be done running.

Q. Did this killing save the lives of numerous decent prisoners?

A. I can say that in the case of Kusehnier Kuscharew, yes, because Kusehnier Kuscharew during that time of 1941

until the end of 1941 quite certainly was responsible for the death of one thousand 1200 Russian prisoners and German political prisoners. In the case of other killings of which I know for certain, the situation is exactly the same. I believe that if Kuschniar Kuscharew had lived to experience the end of the Buchenwald camp he probably would have achieved a record figure four to five times as big.

Q. In what manner did the illegal camp administrator ascertain who the informers and stool pigeons were?

A. The illegal camp administration really only consisted of prominent political prisoners. This illegal camp administration saw that every position, be it commando, leader of the camp, or the camp physician, in other words every position where interesting things might be learned, was held by their confidence men and everything they managed to find out, be it orders from the SS, be it work of the traitors and informers, whom I have mentioned, was immediately reported to their own men. I would like to add that the seat of the illegal camp administration always was in the sick-bay as long as I knew Buchenwald. Dr. Hoven was perfectly well informed about what was going on inside the camp and without reserve approved of the measures adopted by the detainees. I can well say that Dr. Hoven has always been the back-bone of the illegal camp administration.

Q. To what extent did Dr. Hoven participate in these killings?

A. I did not understand that question, would you mind repeating it?

Q. To what extent did Dr. Hoven participate in these killings?

A. I know for certain of five killings and they are those which I have already mentioned. These killings took place in the presence of Sturmbannfuhrer Dr. Ding and a man unknown to me, whom I think was a doctor.

Q. Where did these killings take place?

A. In the Hospital Theater No. 2

Q. Where do you derive your knowledge from?

A. I would like to tell this Tribunal that I am possibly the only prisoner of Buchenwald who without the knowledge was observing all killing of Dr. Hoven and the camp administration. I spent a long time in Ward No. 6

where Dr. Hoven placed me as a nurse. Everytime a SS man entered the camp I knew it. I of course, did watch out from my window by climbing on my bed or by taking a high stool, I could from the latrine look directly into the operational theater from the top window. Consequently, I could see every move in the operational theater. I could see the inside of the operational theater, I could see the operating surgeon and ascertain accurately what was going on in the operational theater.

Q. Did you see that apart from the SS informers and traitors you mentioned Dr. Hoven killed other people?

A. That I never saw.

Q. Would you have seen it if it had happened?

A. I would have because I have already mentioned that everytime a member of the SS, be it a Doctor or anyone else, entered, I immediately went upon my observation post.

Q. For what period can you testify to this?

A. I was appointed in March of 1941 and went from Buchenwald to Auschwitz a few days after the arrest of Dr. Hoven, that is to say that during the period from 1941 to 20 September 1943 I was there.

Q. During this period were you always present in ward 6?

A. Yes, I was always in ward 6.

Q. What about the nights?

A. During the night I slept in the ante-room of operating theater 2. In other words, everyone who had to enter operating theater 2 had to pass through my bed room and thus I could really see everyone who had any business in operating theater 2. During the night no one could enter the operating theater from the back since I had orders to lock the back door of the operating theater every night after the end of treatments and to hand the



key to the chief nurse.

Q. Could it have happened that these killings were carried out in another operational theater?

A. No.

Q. Can you give any detailed reasons?

A. Operational theater No. 1 was worked in exclusively by Dr. Horn, the Czechoslovakian prisoner doctor, who carried out all operations and also the Czech prisoner, Dr. Matschak and I believe with certainty if anything happened in that operating theater that Horn would have opposed it and would have informed all of us immediately. Apart from that Operational theater no. 1 is a room where only operations of an internal nature are carried out and for that reason had to be kept completely sterile. For instance, if I wanted to enter operational theater 1, I had to undergo complete disinfection before and I cannot imagine that any other personnel could have entered operational theater 1 at all.

Q. What do you know about Room No. 11?

A. I know that Room No. 11 until 1941 was a hospital ward in the T.B.C., the so called Alm.

Q. And what do you know about Room No. 11 after 1941?

A. At the end of 1941 new furniture was put in and it was made a recreational and dining room for the nurses working in the T.B.C. station, since the camp physician had strictly prohibited that rooms where T.B.C. patients were confined should be used for eating.

Q. What do you know about the reputation of this Room No. 11?

A. The reputation of Room No. 11 was the worst in the whole camp of Buchenwald, because at the time when Dr. Eisele still acted as camp physician, he collected all the

patients who no longer had any hope for recovery in Room No. 11. I hardly think that any of these patients left the room alive. It was said that Dr. Eisele was liquidating incurable patients there.

Q. Up to what time would it have been possible, therefore, that killings went on in Room No. 11?

A. Actually only until the end of 1941, as long as Room No. 11 was a ward and hardly after that time.

Q. Who was chief camp physician until the end of 1941?

A. Dr. Blanka since Dr. Hoven only became camp physician in 1942.

Q. Let me put Doctor Horn's testimony to you, it is page 5395 of the German record. Dr. Horn only worked in the sick bay after the beginning of 1942 and he testified he had to sign a certificate that he could not enter Room No. 11; how can you explain that if according to your statement he was there as early as 1941 and Room No. 11 had become a recreational room for nurses?

A. The way I can explain it is that in 1942 and 1943 it was strictly prohibited that this department where T.B.C. patients were was to be entered by anyone. I, too, had been instructed by the camp physician and even by Capos to the effect that I had no business in the room for infectious wards for T.B.C. patients and I never tried to get there either.

Q. What do you know about the number of people killed by Dr. Hoven?

A. I have already said before that from 1941 to 1943 I was an eye witness to all killings. I can only testify in this court room that I have seen for myself how Dr. Hoven killed the five prisoners whom I mentioned. I would like to add at this point that after the second killing,

Dr. Ding took the syringes away from him and accosted him. Just what Dr. Ding said to Hoven I could not read from his lips, possibly he was not satisfied with Hoven's work.

Q. I shall now put Roemhild's testimony to you, according to the German Transcript Page No. 1639, he gave a figure of a thousand.

A. I can only reply to you by restating the fact that I was actually an eye witness to these killings. Roemhild, who did not work in the sickbay wards and had no opportunity either to watch the killings or to be actually present, cannot possibly know who carried out these killings. Naturally, it was assumed in the camp that the camp doctor was carrying out these deeds.

Q. Did you ever see that the Defendant Hoven killed people who did not act as stool-pigeons or informers for the camp administration?

A. I have certainly no knowledge of such a case.

Q. Will you please tell this Tribunal just in what manner it was ascertained in the case of these five people, whom you have talked about, if they were informers or stool-pigeons for certain?

A. The case of Kuschnir Kuschnarev was quite definitely a sensation in the entire camp. I don't believe there was a single prisoner who was so hated as this man, but I do know that Dr. Hoven nevertheless made absolutely certain just who Kuschnir Kuschnarev was. I am quite certain that during those two days when Kuschnir Kuschnarev was in the hospital, Dr. Hoven interrogated one hundred witnesses for certain to find out whether Kuschnir Kuschnarev was really the traitor whom he had been told about.



Q.- Did the defendant, Dr. Hoven, kill prisoners who were unable to live any longer ?

A.- No.

Q.- Did the defendant, Dr. Hoven, kill prisoners who reported to him for treatment ?

A.- No, I have never seen Dr. Hoven send a prisoner away who went to him for treatment or blame him or hit him as so many other camp doctors did.

Q.- If any other persons carried out similar killings, would not Dr. Hoven have had to hear of such acts ?

A.- I really couldn't give you an explanation just how Dr. Hoven would have gained such knowledge because if people were killed then it was always done at the exact moment when Dr. Hoven wasn't in the camp.

I would like to give you a brief explanation on this point. At the entrance to the sick bay there was a doorkeeper's hut and in that hut a political prisoner sat whose name was Franz Blass. In this shed there was a bell and when Dr. Hoven came down the camp street which was clearly visible from this doorkeeper's shed then Blass had orders to ring this bell twice. If anything illegal was going on in the sick bay by prisoners or by the SS and this bell rang twice, then all activities ceased. Consequently, Dr. Hoven could never surprise anyone who was doing anything or trying to do anything without his knowledge or had possibly done some such thing.

Q.- Wasn't it essential that Dr. Hoven had to gain knowledge of these killings because of the fatality or casualty reports in the camp ?

A.- To my knowledge, that was impossible. The ordinary normal death figure at the camp Buchenwald at that time was very low. Up to now I have read every publication and checked everything that was written about Buchenwald and I have devoted myself intensely to the study of these articles but they all concurred that the normal death rate in the camp at Buchenwald did not exceed 2%. It was, therefore, quite certainly not



difficult to smuggle in a few dead, particularly since Dr. Hoven didn't sign all the death certificates: but since this was purely a matter for prisoners and in cases where the bodies were dissected the death certificate was issued together with the findings of the dissection, signed by a prisoner in the sick bay, and then passed on to the Buchenwald registrar. He countersigned it and then sent the certificate to the relatives of the dead person. I, for instance, would never have had the courage if I had known about the killings to go to Dr. Hoven and say, "This and that man has killed," because the capos would have immediately taken my life for it.

Q What can you say about the extent of the entire goings on in the sick bay? Was it pretty big?

A The sick bay at Buchenwald was actually very large, indeed. There was a large barracks for internal diseases, two barracks for surgeons' patients, and then across the park there were two further barracks. There were altogether approximately eight rooms and I think that it was just as impossible for Dr. Hoven as it was for myself to control all these eight barracks and supervise them simultaneously.

Q Was it for those reasons that defendant Hoven couldn't concern himself with all details in the sick bay?

A I would almost like to say that the sick bay of a prison camp isn't a private clinic and that Dr. Hoven didn't know most of the patients who were there personally at all and, therefore, he didn't discover if one or the other prisoner wasn't in the sick bay any more. The following day if he had really made inquiries on any occasion then he would have gotten the answer that the prisoner had been released back into the camp.

Q What was Dr. Hoven's attitude regarding prisoners and, particularly, sick prisoners.

A That question I can only answer "excellent," if I draw a comparison between other camp doctors and during my detention I met 20 or 25

camp doctors. For instance, I remember one certain doctor by the name of Eisela who took special pleasure in accosting elderly Jews in the camp and asking them if they were hungry and telling them if they would go straight to the sick bay he would give them something to eat ; and then, instead of giving them food there or any type of assistance, Dr. Eisela took his hypodermic syringe from his pocket and took two such poor wretches and gave them doses so that the victims usually suffered terrible cramps and, for Dr. Eisela's amusement and in front of prisoners who might like to see that sort of thing, were rolling about in front of the barracks or might start screaming and raging. In comparison to all that, I must say that Dr. Hoven did a great deal for prisoners, particularly for recently operated prisoners.

You might think it somewhat funny if I tell you here that in a concentration camp people who have just been operated receive an additional ration of good butter, milk, white bread and fruit or that the treatment of convalescent people actually included the construction of a wonderful garden ordered by Dr. Hoven and that they managed to get deck-chairs in their garden so that recuperating patients could lie in the sun in deck chairs during their stay. During my prison term I got to know three camp doctors and I never saw any other doctor doing anything like that.

Apart from that I would like to add that all prisoners in the camp liked Dr. Hoven very much and that every prisoner who had any troubles, be that he be sentenced to flogging or anything like that, whenever he went to see Dr. Hoven he always found a willing ear. I can certainly put sufficient cases to you here where prisoners had been sentenced to 25 lashes and when Dr. Hoven managed to carry out some sort of manipulations in order to save people from this type of punishment.

Q.- Did the defendant, Dr. Hoven, make efforts to give sick patients every conceivable medical attention ?

A.- I can certainly say that to the best of my conscience.

Q.- Can you give examples to this Tribunal ?

A.- First of all, I would like to describe the case of a 17 year-old Jewish prisoner. This prisoner, named Kurt Glaeser, used to carry soil for the head gardener an Unterscharfuhrer, Dombeck. Some how, on one or so occasions, this man took a dislike to him and he tried to hit him and hit him so unfortunately with his boot that Glaeser dropped to the ground. Dombeck jumped upon this young man with both feet and this inflicted a complicated double fracture of the thigh. That was somewhat unpleasant for Dombeck. The prisoner was taken to the sick bay and there he was supposed to be liquidated.

When this prisoner was admitted Dr. Hoven was present in my ward and allocated a bed in my ward to this Jew. I can say that this young man would never have survived in that camp if Dr. Hoven hadn't left him in my ward for a year and a half. I have experienced frequently during that period that Dr. Hoven came along and asked him if he had any wishes and I know that this prisoner was operated probably nine or ten times within that period without knowledge of the Kommandant's office.

Then there is another case I would like to tell you about. It was forbidden as a matter of principle that Jewish prisoners should be admitted to the sick bay or treated there. Dr. Nieske certainly observed that instruction most strictly ; but, once Dr. Hoven gained a certain amount of influence in the camp, he found illegal ways and means for establishing a small ward for Jews only and he forbade expressly that we, nurses should draw Jewish marks upon the patient's history and fever chart. If there were visitors or if the camp Kommandant went through, Dr. Hoven always described these patients as being non-Jewish. I am firmly convinced that many a Jew that was doctorred there is still alive today but otherwise that he would probably have died in 1942.



Q Will you please describe to the Tribunal Dr. Hoven's attitude toward you when you were sick?

A At that time I was working in the quarry and I contracted a swelling of the glands. I was operated on by the prisoner Walter Kraemer and then was discharged from the sick bay and got eight days of light duty, but unfortunately a few days later the same trouble occurred again, Glandula inguinalis, a swelling on the left side, and I returned to the sick bay and reported sick and my reception wasn't exactly glorious, because first of all Kraemer described me as an asocial element, and that these were penitentiary methods, and I had inflicted this trouble upon myself, and I had done something to cause my second hernia gland to swell, and he ordered me to wait until the out-patients had been dealt with, and I didn't know at the time what this meant, but I learned later that this waiting would have meant my death, since after the other prisoners had left the operating station, I would have been transported elsewhere, you know where - and then Dr. Hoven came along and asked me what I was suffering from and took an obvious interest in me, and I can't tell you why today, I don't know, but at any rate Dr. Hoven made an incision with his own hands, and after I was discharged from the sick bay he managed to get me a job in the prisoners' kitchen, and now I would like your permission to describe just how I got into the sick bay. A political prisoner who was suffering from a very serious infection underwent the amputation of an arm. This prisoner's life depended upon whether he could be given fresh blood or not and thus the loud speaker of the camp announced that if there was a prisoner in the camp who had once given blood, then he should immediately report to the sick bay. Some time previously I had given blood in a University clinic and I knew I had blood group "O" and was therefore universal, and so due to the loud speaker's announcement I went to the sick bay and gave 300 cubic centimeters of my blood to him and I was about to leave the sick bay at the moment and Dr. Hoven said: "You will stay here first of all and relax properly, and you will



refresh your food situation," and I stayed in bed for about three or four days, and after that I got up, and Dr. Hoven gave me instructions to report to the food store of the SS, which was under the care of Hauptscharfuhrer Barch, and Dr. Hoven wrote down for me that Hauptscharfuhrer Barch should give me very large quantities of rations, and this special ration at that time consisted of approximately two pounds of butter, 5 litres of milk, several pounds of good sausage, white bread and grapes, and then I received glucose in addition to that, and I was about to leave the sick bay about four weeks later, when Dr. Hoven came along quite suddenly and told me: "You don't have to work in the camp. You can stay right here in the sick bay. You can be employed here as a nurse." And then I was a cleaner for about a year and after that I was employed as a nurse.

Q The story you have just told me, was that the defendant Hoven's attitude toward all prisoners or was that his attitude toward you because you were an acquaintance of Dr. Hoven?

A Let me say before that that I hardly knew Dr. Hoven at all. In fact I only saw him once before when he operated on me. During the period of my blood transfusion, I didn't see Dr. Hoven at all since it was carried out by a nurse, and I don't think he was even a doctor, and I can certainly say it was only when I was about to leave the sick bay that Dr. Hoven took a renewed interest in me. I feel almost ashamed because some of my former comrades may be sitting in the audience and I would find it rather awkward if I would say I am the only one he preferred in this way.

Q Would it be right to say that up to the moment you entered the sick bay you were one of many of the unknown prisoners to Dr. Hoven?

A I would like to add to that that any man who can see me sitting here today and who might have seen me at the time would probably not have given five cents for my life, because I had spent months in the penal company at Dachau and my physical condition was miserable.

Q Would the defendant, Dr. Hoven, gain any advantages from

you? Was that the reason why he helped you?

A What might I offer to Dr. Hoven? All I had were the prisoners' clothes I was wearing. I wasn't even allowed to keep my wedding ring when I was in prison, so what could I offer to Dr. Hoven?

Q What was the general reputation of Dr. Hoven in the camp?

A Let me say that contrary to other camp doctors, most prisoners took an interest in the personality of Dr. Hoven, because I believe among all members of the SS there wasn't a man about whom any good rumors circulated in the camp. It became known, for instance, that in one block in that camp, and I can't give it to you accurately which one it was, but it was in the row between blocks 45 and 50, there was a block with a fence around it, and in that block former high officials of the Dutch State were confined; among them the former Dutch Minister of Finance and the Minister for Colonies and a high ranking government official from India, and also a certain professor, Dr. Elderi, who had once been the head of the International Rhine Control Commission, and there were many other well known personalities from Holland. These people had a great deal of advantages over other prisoners, and they succeeded in getting Dr. Hoven over to their side completely. I know for certain that Dr. Hoven helped a great many of these people to regain their freedom and it is a well known fact and case that Dr. Hoven really employed means to have these people released, and had he been found out it would have resulted in his immediate detention by the Gestapo, and having to face very probably the next special court. Dr. Hoven succeeded in having these people released when they were only physically weak or sick, to fake x-ray findings for healthy people by substituting photographs of tubercular patients, by which means he succeeded in getting these people out.

Q Would it have been possible to say that in accordance with Hoven's position in Buchenwald that he actually killed prisoners when there was no other in the community to do so?

A Your Honors, I can't imagine that a man who helped a Jew

who had no right to live in the National Socialist state, that he killed people is possible, a man who asked him for his wishes regarding food and nursed him and aided him in the sick bay for months and even helped conceal him in the sick bay for years, that the same man arbitrarily might have carried out killings which were not necessary. I just cannot imagine such a thing.

Q What was the medical care like during the time when the defendant Hoven was camp physician at Buchenwald?

A I am glad to say that this medical care was a very good one. I would like to emphasize particularly at this point that this was a considerable achievement on the part of the old established political prisoners who collaborated with Dr. Hoven, because it is a fact that we obtained medical supplies, bandages and additional food from the Chief of the Hygiene Food Department at Berlin, Lichterfelde. Apart from that it was possible during Hoven's period that he added two large huts to the camp hospital which were extremely well equipped and were really quite worthy of human beings. I can recollect that on several occasions during the inspections carried out by doctors who were members of the armed forces, the expressions were used: "Look here, doctor, the installations here is almost better than ours, even the barracks for the troops and our front line hospitals," and I want to add that until my departure in 1943, which was after the fourth year of war, we were still sleeping in beds with white sheets. We had blue and white sheets which were perfectly clean, and in 1943 in addition to that we still had considerable quantities of glucose, insulin and so on, which many soldiers have told me that the front line hospitals were terribly short of.

Q Were there sufficient beds?

A I can well say yes, because I would estimate after all that there were certainly 800 to 900 beds in the prison hospital in Buchenwald, and apart from that Dr. Hoven so organized it, if the sick bay was really full, then prisoners received a so-called light duty

5 Jun-44-1B-10-5-Cook (Int. Frank)  
Court No. I.

certificate, which meant that they could stay in bed in their own block. I can remember very accurately for instance that at the beginning when Dr. Hoven had become camp doctor that the death rate in the camp Buchenwald really went down quite a bit and it happened that half of the wards in the sick bay were empty. Among us prisoners there was a general rumor that Dr. Hoven really deserved great praise for what he did in the sick bay.



Q. I would like to submit to you once again Document 1063 of the War Crimes Commission at Amsterdam and I shall now put to you Schalter's testimony on page 16 of the German translation. Schalter states in this document that the camp doctor, Dr. Hoven, played an extremely bad part and, no doubt, had on his conscience the death of innumerable people due to insufficient medical care. The witness says "food supplies" but the translation of that is a mistake. It is medical care in the Dutch original. Now, let me ask you, was Schalter working in the Sick Bay?

A. No.

Q. Would Schalter then be in possession of the necessary knowledge which would enable him to pass judgment on the medical situation at Buchenwald?

A. Counsel, I think I have already said to you before once today that an outsider would have found it quite impossible to have gained insight into the prison hospital or the Sick Bay and the actual camp had been two separate camps at all times. Furthermore I am firmly convinced that if I hadn't been working in the Sick Bay myself and were told today that Dr. Hoven played a bad part that I would assume that to be the truth without criticism because outsiders are not informed about the conditions and about the activities of a camp physician.

Q. Do you know a case where a prisoner during the time when Dr. Hoven was camp physician died because of insufficient medical care?

A. Amongst the people who were operated on by the prisoner Dr. Horn, with Dr. Hoven as the assisting surgeon, I cannot remember a single case.

Q. What do you know about the defendant Dr. Hoven's political views?

A. I can't imagine that Dr. Hoven was a famous Nazi because I think if he had had any plans of that nature then he would have placed his whole wireless set at the disposal of the people in the hospital - that gave us a wonderful opportunity of listening to England and Moscow every night. Apart from that Dr. Hoven was most certainly informed that there were two night watchmen in the hospital especially for this purpose. I can remember very well that Dr. Hoven placed his dog at the disposal of one of these watchmen so that anyone who approached the Sick Bay was immediately announced by the dog and the night watchman said "Watch out, trouble, turn off the switch." I believe if Dr. Hoven had been an convinced SS man he would hardly have made jokes like that.

Q. You have already spoke about Dr. Hoven's attitude toward the Jews. Do you have anything you want to add or would you just describe Dr. Hoven's attitude toward Jews summarily.

A. I believe that it is generally known that Jewish prisoners in that camp were actually suffering the worst lot of all. If an SS man, be it the doctor or be it another ascertained the block leader of the Jewish blocks was taking an interest in the Jews, then he had to take quite some risks because he always stood between the prisoners and the SS and I know for certain if the preferential treatment which Dr. Hoven gave the Jews had been known then Dr. Hoven wouldn't be in the Dock today. I think at that time he would have gone the way so many prisoners went at the camp in Buchenwald. I would really like to remind you of the case of August Cohn in this connection. I think I have mentioned the name once before today. Cohn was a German, a political Jew, and with his comrades and all the

prisoners in the camp he had an excellent reputation. One day this man was supposed to leave the camp of Buchenwald on a transport. The illegal camp administrator immediately contacted Hoven saying there was danger for Cohn to be transported away from Buchenwald. Dr. Hoven immediately adopted the necessary measures and brought Cohn to Block 46. I can remember that a few weeks before Cohn left for the United States, because I live near Kassel, I met him in the street quite by accident when he had a break down of his car. I recognized him immediately and stopped and started talking with him. For the first time I learned that the defendant Hoven had later been a prisoner in the concentration camp of Buchenwald. Cohn also told me that an American Armored Troop had put Hoven on top of a tank and had taken him from Weimar to Buchenwald. When they got to Buchenwald Cohn saw Hoven standing on top of the tank and he stopped the American driver and said to the officer who was there, "Gentlemen, don't do any harm to this man. He is the man who fought in our ranks." Your Honor, could you imagine that a Jew of all people - those people who suffered most by hardship in that camp - would speak up to save the life of an SS man and describe him as a decent human being? I don't believe so. I wouldn't do it in any other case either.

Q. Will you please tell this Tribunal the measures adopted by the defendant Dr. Hoven in order to camouflage Jews in that legal Sick Bay?

A. It happened very often that Jews who arrived in the prisoners' Sick Bay were immediately deprived of all articles, that the markings were removed from the prisoner's clothes and all that was left was a number so that any camp commander who might come to the Sick Bay, even the commandant



or little SS men, could never find out that these prisoners were Jews. It happened every day after all that Jews suffered ill treatment in the open camp streets. If one of these gentlemen might have had a bad breakfast he would then go out and assault those Jewish prisoners, beat them senseless. And I must add that all these people who came back from flagging were admitted to the Sick Bay by Dr. Hoven although this was severely prohibited. I would like to tell you about the Jewish prisoner Brandt from Hamburg. I know I am under oath in this Court Room and that I must think carefully about every word I am saying. I want to tell you that this man Brandt had four operations on his behind since all flesh had been beaten off his bones. Dr. Hoven kept this man perhaps 8 or 9 months in the Sick Bay and I assure you he was excellently fed first of all for pity the nurses felt for him, and secondly, Hoven saw what this man had gone through, a terrible torture. I am not exaggerating when I say he had sores on his behind as large as my hand and it must be highly considered that Dr. Hoven helped so much at the time.

Q. What was Dr. Hoven's concern regarding food supplies for the prisoners?

A. I would like to say that I myself accompanied Dr. Hoven during many inspections of the prison kitchen and it happened quite often that Dr. Hoven took a plate from the kettle in which the prisoner's food was cooked and tried this food. When Dr. Hoven felt that the food was not edible he went straight to the phone and got in touch with the commandant and replied that the food would go straight to the pig sty, the work would be interrupted, the prisoners would return to the camp and a new meal would be cooked and only the newly cooked meal would be given out.



I know he went to the prison kitchen three to five times a week.

Q. What other measures did Dr. Hoven adopt in the interest of the prisoners?

A. Counsel, would you kindly repeat the question, please?

Q. What additional measures did Dr. Hoven adopt in the interest of the prisoners?

A. I know for instance that a large number of cases when prisoners had to do hard physical work in the working party so that many were near physical breakdown. I have also experienced it that Dr. Hoven crossed the parade square several times and that during roll call, which before Dr. Hoven's time occupied three to four hours, convinced himself of the physical condition of the prisoners. No doubt the whole camp was deeply grateful to Dr. Hoven that he succeeded to reduce the roll call period in Buchenwald to a minimum. I can well say that roll call during Hoven's period hardly took longer than 20 minutes. Now when Hoven saw people on the parade square that looked weak and badly nourished he gave instructions to take down the number of the detainees and saw very quickly that that prisoner went to another working party.

Q.- What do you know about measures adopted by the defendant Dr. Hoven to save Polish people who were to be hanged because they had sexual intercourse with German girls ?

A.- The situation of those Polish prisoners in the camp was rather bad. Most of them, after they were in Buchenwald for two or three weeks, were called to the political department by either LeClair or Sorne and hanged. After the illegal camp administration and Dr. Hoven had discovered that there did exist the possibility to save these people since there was an order from Berlin to the effect that Poles who spoke German well were to be Germanized if possible, Dr. Hoven made excessive use of this loophole. I could describe you many a case when Polish prisoners, who were in the camp for three or four days and could, therefore, not be recognized as good comrades in that short period, were instructed to report to the sick bay where they were then physically and medically examined, measuring was carried out - this always appeared most ridiculous to me - and then those people were included in some list - I think it went up to 5 - and then when Dr. Hoven succeeded in putting these men on List # 5 then they had escaped death because a German who had intercourse with a German girl couldn't very well be hanged for that.

Q.- Had prisoners requested the defendant Dr. Hoven that when he was away from Buchenwald he should always leave a message to the effect where he could be found ?

A.- I'd like to say that the hospital had connection with Dr. Hoven's apartment, even I think with the the commandant, the commandant's office and the gate by telephone, and every time that Dr. Hoven left the hospital he told the nurse on duty where he could be found. It happened for instance, that operations had to be carried out right in the middle of the night. Sometimes, quite possibly, Dr. Horn didn't know whether he could carry on without Dr. Hoven's, the camp physician's permission or not and then he went to the telephone and got Dr. Hoven, but I have not to say that in no case which I ever saw did Dr. Hoven refuse to come,

making some excuses or even delayed. It was generally known that when Dr. Hoven was needed in the camp he was there. There were circumstances sometimes when, quite suddenly, two or three camp leaders arrived in the sick bay. They had got an idea somehow that the camp hospital was really the seat of the illegal camp administration, and they started to turn everything up side down looking for pamphlets, written and printed documents, radio receivers and transmitters, and it never took a long time before Dr. Hoven showed up and stopped these people from carrying out further search, telling them that they made a nuisance of themselves. I think many a beating was served in that way and many of our good comrades escaped the crematorium that way.

Q.- Was it generally known in the camp that the defendant Dr. Hoven collaborated with the illegal camp administration?

A.- If I were to say "generally" in the camp that would probably be too much because if we question one hundred persons from Buchenwald in this court room and ask them who was the illegal camp administration then ninety-nine of them wouldn't be able to give you a definite answer. I must tell you that I myself had been in frequent contact with the illegal camp administration, but if you ask me today or if you tell me to write down the names of the illegal camp administration then I certainly wouldn't get beyond my immediate superior. If there were any messages or reports or orders to be transmitted by me then I only had one man who was directly ahead of me who was designated to me and all I knew was that I had to tell him but I didn't even know to whom he went as the next one. The illegal camp administration, therefore, was always quite definitely a very mysterious affair. Admittedly, the SS camp administration always stated that the former hospital capo, Ernst Busse, had been the head of this conspiracy, but I wouldn't like to state that here because, quite definitely I can't tell you for certain.

Q.- What do you know about the reasons for Dr. Hoven's arrest by the Secret State Police?



A.- Of the official arrest of Dr. Hoven I heard very little, but I assume that subsequently to this arrest I was immediately sent away from Buchenwald because it was very probable that the SS were convinced that I might have seen too much with Hoven and that it was high time, after Hoven went, that I went too. I'm absolutely convinced that the reason why Dr. Hoven was arrested was this. The SS camp administration quite definitely did not fail to see the collaboration between the illegal camp administration and Dr. Hoven. In order not to make themselves ridiculous they couldn't obviously arrest Dr. Hoven and say "You have collaborated with the prisoners" because the prisoners who collaborated with Dr. Hoven could well be hanged without a word of treason ever passing their lips. We certainly saw this case massed of times in Buchenwald because people being under suspicion of being in the illegal camp administration went to the so-called "bunker" in Buchenwald where they died in extreme misery; fortunately, however, without ever giving their comrades away. So I think it would have been quite useless if Dr. Hoven had been arrested officially in order to get from him the names of the illegal camp administration because I don't believe Dr. Hoven would have become that weak.

Q.- Will you please describe to the Tribunal how it happened that you arrived here as a witness?

A.- I read in the news papers that, at present, Dr. Hoven was in the prison in Nurnberg and that he was being held responsible for the euthanasia program before the International Military Tribunal in Nurnberg and, at the same time, I read that a certain Dr. Gawlik had taken over the defense of this defendant. Now, since I owe my own life to Dr. Hoven, and since I have seen so many good deeds done to me during the time of my detention, I came here as a voluntary witness. Neither the prosecution nor the defense asked me to do that and it's really incomprehensible to me that all those men who once lived well thanks to Dr. Hoven and who, today, have very important positions in Germany, and I'll just



Court No. 1

briefly mention the Vice President of Thuringia here in this connection. I do not understand the personal cowardice of this man that he hasn't come to Nurnberg today to say "That's how the situation is". There are other people too who are holding high police offices in the Russian Zone today. Why do these people not consider it necessary that the man who has done so much good for them and saved their lives or made their lives easy for them during many years of detention - that these people didn't come here today. I'd also like to say that it was tried to create difficulties for me. When it became known to the Committee for Racially Persecuted People that I would appear as a witness in Nurnberg, it was actually tried quite shortly beforehand to have me imprisoned. They weren't even ashamed to talk to fellow prisoners behind my back and ask them if it wasn't possible that I might have beaten a Jew on some occasion or whether there wasn't some reason for my arrest thus preventing my journey to Nurnberg. But these men didn't score in that effort.

Q.- Thank you. I have no further questions to the witness, Mr. President.

THE PRESIDENT : The Tribunal will now be in recess until 1:30 o'clock

(a recess was taken until 1330 hours, 5 June 1947)

AFTERNOON SESSION

(The hearing reconvened at 1330 hours, 5 June 1947.)

THE MARSHAL: The Tribunal is again in session.

May it please Your Honors, the defendant Rudolf Brandt has resumed his place in the courtroom.

THE PRESIDENT: The Secretary General will note for the record that Rudolf Brandt has resumed his place in the dock.

Do any of the defense counsel have any questions of this witness?

DR. STEINBAUER: Steinbauer for defendant Beiglboeck.

BY DR. STEINBAUER:

Q. Witness, I was interested in what you said at the conclusion, namely, that you were subjected to severe pressure not to appear here as a witness. I ask you, do you believe that if a former hospital capo in a concentration camp today is the regional chief, let us say, of the Communist Party in a country not under American protection, would he have enough power that former concentration camp inmates would be afraid to oppose him?

A. To this question I can only say that efforts were made to make difficulties for me before my departure for Nuernberg.

Q. Please speak a little louder. I don't hear you.

A. I repeat, I can only say that difficulties were made for me before my departure for Nuernberg.

Q. Then you believe that if less intelligent former concentration camp inmates are subjected to such pressure they are likely not to tell the truth?

A. I consider that quite possible.

Q. How long were you in a concentration camp?

A. From 1940 to 1944.

Q. Then you had rather exhaustive experience with concentration camps?

A. Yes, that can be said.

Q. Were you detained in one concentration camp or in different

camp?

A. I was first in Dachau, and from December 1940 to 20 September 1943 in Buchenwald, and from 20 September 1943 until 16 July 1944 I was in Auschwitz.

Q. Then the inmates of the concentration camp were they persecuted by the SS and were there political struggles for power within the concentration camp?

A. I would say the inmates had more to fear of those latter struggles for power than of the SS, because the motto in the camp was "He who doesn't toe the line or it is believed he doesn't toe the line," death sentence is already prepared for him.

Q. Then there was a fight between the blues and the reds in the camp?

A. It would be better to say between the greens and the reds.

Q. Within these individual groups, let us say within the red group, were there also not struggles for power?

A. I can answer that question only in regards to Camp Buchenwald, and I can say that as long as the center of the illegal camp management was in the camp hospital it was possibly determined through Dr. Hoven's protection, when the political prisoners, particularly if they were former communists, were practically united, and Buchenwald was the only camp group this organization was extended to all members of the camp no matter what their nationality was.

Q. Witness, because you just mentioned Buchenwald, were there gypsies in that camp?

A. Quite a few, indeed.

Q. What colors did the gypsies carry?

A. You refer to what triangle they wore?

Q. Yes.

A. They wore the black one designating them as asocial.

Q. I must tell you that in the book "SS State" by Kogon it is stated that the gypsies wore the brown triangle.

A. Insofar as I know, the brown sign was done away with in Buchenwald in 1940, and all gypsies arrested for racial reasons were asocial.

In other words, from 1940 on there were no gypsies in the camp who were not designated in the filing system as asocial, as unwilling to work.

Q. Now we have these various designations, the reds, blues, and browns. Did any of these groups have more opportunity to escape from the camp more quickly than other groups?

A. The green prisoners, the professional criminals, had no chance whatever to be released from the camp. The political prisoners - of them I know only three or four cases who were released through channels. To be sure, there were some releases which I said this morning which Dr. Hoven was behind. The black ones had quite a good chance of being released.

Q. And according to what you have said the gypsies belonged to this class.

A. I have already said so.



Q. Let me ask you again, did the gypsies belong among those who had a better chance of early release?

A. Yes.

Q. Do you know whether there was a tuberculosis station in Dachau?

A. I know about this Tuberculosis Station from my own experience from the time I myself was at Dachau, moreover, I can state that from my Auschwitz time, we sent tubercular persons if they were native Germans to Dachau for treatment.

Q. Now, since you said you know about this station yourself; how was it kept?

A. I must say I saw this station only from the outside, but I know from prisoner nurses with whom I associated in Auschwitz that the tuberculosis station in Dachau was very well equipped.

Q. Now, if a prisoner had the misfortune of falling sick with tuberculosis in Dachau, do you believe that he was taken into and cared for in the tuberculosis station, or do you believe he was killed because he had tuberculosis?

A. The important thing in the camp was always whether the prisoner had some connections either with the camp doctor or with the illegal camp administration and if so, he was immediately taken into the Tuberculosis station.

Q. Did you ever hear that prisoners were used in experiments, medical experiments?

A. So far as I know there were high altitude experiments in Dachau for the Luftwaffe, then I think there were experiments in making sea-water potable and experiments of that sort, however, I am not exactly informed on this.

Q. That is not important, but can you tell me perhaps were these people forced to participate in these experiments

or was there an opportunity for them to apply?

A. Please imagine the position in which a prisoner finds himself, who for many years has not been able to eat until his appetite is satisfied and imagine how he think if he applies for such and such an experiment, he will receive double or triple rations. You can readily see that hundreds and even more prisoners would make themselves available simply for the purely human urge to have a full meal.

Q. Now, witness, you said that for an inmate of the camp it was difficult to know very much about what went on in the hospital; what opportunities did a person entirely outside of the camp, let us say myself living in Vienna, have to observe what went on in Dachau or Buchenwald?

A. I can only give you the one answer; I myself did not know what went on in there until I myself was inside.

Q. Thank you, I have no further questions.

THE PRESIDENT: Are there any further questions to be propounded to the witness by defense counsel? If not, the prosecution may cross examine.

BY MR. HARDY:

Q. Mr. Dorn, how long did you work in the quarries at Buchenwald?

A. From December of 1940 until I first fell sick around the middle of January, then with short interruptions I was in the hospital and then until March of 1941 I worked in the quarries.

Q. How many people did you see killed there?

A. How many in the quarries?

Q. Yes.

A. That is a very sad chapter. The prisoner Kapo Herzog, a man of ill repute, treated the prisoners exactly in accord with what his mood happened to be and it is true

that people were mistreated for so long they finally died.

Q. Didn't they actually take inmates to the quarries to execute them?

A. Mr. Prosecutor, in the early morning, when the prisoners were leaving the camp, the Camp Commander Schabert frequently ordered that when the commando came back in the evening there were to be no more Jews in it. I believe that you understand what that means.

Q. How long was Schabert Camp Commander?

A. As far as I know, until the camp was liberated.

Q. When Koch Camp Commander?

A. I must correct; Schabert was not the Camp Commander but the administrator of the Preventive Custody Camp.

Q. What kind of a man was Camp Commandant Koch?

A. I must say that I saw Commandant Koch only very infrequently, but so far as I recall, he was a man with no conscience and a criminal, that is really the only description that one can find for that man.

Q. When did you first enter Block 46?

A. Approximately three or four days after the first experimental series was begun.

Q. How often did you frequent Block 46?

A. You mean the entire period of time during which I was in Buchenwald as a nurse; if you do, I must say that I cannot give you the exact number of times, but that it was very often.

Q. Did you go there two or three times a week, or two or three times a month; just how often?

A. I believe I can state that I was there twice a week.

Q. Twice a week; however, you had no duties to perform at Block 46?

A. No, in Block 46 I had no work to do, only occasionally



I had to take medicine and drugs there.

Q. Then your only reason for frequenting Block 46 was to deliver drugs and medicine; is that correct?

A. I frequently had to take food there to, butter which was given as an additional ration and which I received in the kitchen to be taken to Block 46.

Q. Well, then, whenever you paid a visit to Block 46 how much time did you spend there; ten minutes, two hours a whole day?

A. Sometimes I was there for an hour and conversed with the nurses there.

Q. Did you ever see any experiments being conducted?

A. I saw the patients daily, I also often asked them how things were going with them or what they were doing, but I could not see the experiments themselves since Dr. Ding never took me inside the Block.

Q. Did you ever see Dr. Ding administer any injections to the experimental subjects or perform any of the experiments thereon at any time?

A. No.

Q. Then, you are not at liberty to tell the Tribunal who experimented in block 46?

A. Mr. Prosecutor, I am in a position to do so because I was on very friendly terms with the nurse Jellinek and he frequently told me what was being done in Block 46.

Q. Did any of the nurses ever tell you that Dr. Hoven was performing experiments in Block 46?

A. No.

Q. Would it have been possible for Dr. Hoven to perform experiments in Block 46 without your knowledge?

A. I hardly believe so, Mr. Prosecutor, because such things would immediately have become generally known in the



camp in our circles.

Q. Suppose Fritz Kirchheimer stated that he personally saw Dr. Hoven experiment on subjects, in Block No. 46?

DR. GAWLIK: I object to that question, Kirchheimer never said such a thing. I wish the Prosecutor to show the transcript to the witness so he may see what Fritz Kirchheimer actually did say. I know that Kirchheimer stated he never saw Dr. Hoven giving an injection.

MR. HARDY: Pardon me, Your Honor, I did not say injection. I said experimented on. Fritz Kirchheimer testified here that Dr. Hoven tied the cage of lice on inmates logs in Block 46, if I recollect correctly.

Did Kirchheimer ever tell you about that witness?

DR. GAWLIK: Mr. President, I believe that the ruling of the court is that the transcript should be shown to the witness so he himself can read what the witness Kirchheimer said.

MR. HARDY: Your Honor, I don't think that is necessary. I will ask him whether or not Kirchheimer ever told him that he saw Dr. Hoven ever experiment on inmates in the camp.

THE PRESIDENT: Then you will withdraw the previous question?

MR. HARDY: That was my previous question, Your Honor, I asked if he ever talked to Kirchheimer and if Kirchheimer ever told him that Dr. Hoven ever experimented on inmates, that was the import of my question.

THE PRESIDENT: The translation must have come through wrong then, Mr. Hardy, I did not understand you. The prosecutor will propound his question again.

MR. HARDY: Did Fritz Kirchheimer ever tell you that he saw Dr. Hoven performing experiments on human beings in Block No. 46?

Court 1  
June 5-14-6-ED-Meehan-Brown.

THE WITNESS: No, moreover Fritz Kirchheimer was, so far as I know, employed only in the bath and had had no opportunity to observe the functioning physician during his experiments.

MR. HARDY: If Fritz Kirchheimer stated that he had the opportunity to observe that; would you tend to disbelieve him?

Court No. 1

DR. GALLIX : I again ask that the prosecutor put the transcript to the witness. I deny that that statement was ever made by Kirchheimer, in my recollection. The witness Kirchheimer did not say that and, in order to be sure on this matter, I ask again that the transcript be put to the witness so that he can see what really was said.

THE PRESIDENT : I think in order to make the question proper the transcript should be procured.

MR. HARDY : Strike the question, Your Honor. I will not bother to put it to the witness yet. I will save that for the brief.

BY MR. HARDY :

Q.- Did you know one of your colleagues, an inmate named Leouwarden, spelled L e o u w a r d e n ?

A.- No.

Q.- Did you know another one of your colleagues, a witness named Schalker, S c h a l k e r ?

A.- No.

Q.- Now, you say when this first shipment of lice arrived. Can you tell us where it came from ?

A.- So far as I know, from Cracow.

Q.- How did you happen to know that it arrived from Cracow ?

A.- There was general talk about it in that camp and it was said that the Wehrmacht officer who brought the second shipment of lice had come from Cracow from the Wehrmacht Institute there.

Q.- Did you see the lice ?

A.- I personally did not.

Q.- Did you see the lice destroyed ?

A.- No.

Q.- Do you know whether or not it was destroyed before or after use in the experimental block 46 ?

A.- The first shipment was certainly burned before any experiments were done with it.

Court No. 1

Q.- Who told you that ?

A.- In the whole hospital that was well known to all the nurses.

Q.- Who told you that ?

A.- My superior in the illegal organization.

Q.- Who ?

A.- Hellmuth Diemann.

Q.- Is he the man who was one of the doctors working in the hospital barracks ?

A.- No.

Q.- What was his position in the hospital barracks ?

A.- Hellmuth Diemann was a prisoner nurse.

Q.- When did the second shipment of lice arrive ?

A.- That was at the end of 1942.

Q.- Did you see it.

A.- No.

Q.- Did you see it destroyed ?

A.- No.

Q.- Do you know whether or not it was destroyed before or after use in the experimental block 46 ?

A.- It was burned after the lice had been placed on the prisoners for a few minutes. When the person who brought this shipment, the Wehrmacht officer, had left block 46, the cages of lice were taken from block 46 and burned.

Q.- Who told you that ?

A.- In the illegal organization that was explicitly made known, because we prisoners, so far as we knew what was going on in block 46, were just as afraid of an attack of disease as anyone else who had anything to do with block 46. For this reason these measures were taken for our own reassurance and so far as possible to reassure all the prisoners in the camp, and for this reason this information was immediately made known.

Q.- Who was present in the illegal camp management when these lice



were tied on to the legs of inmates ?

A.- Very probably, only the prisoner capo of block 46, Arthur Dietzsch.

Q.- Was he a member of the illegal camp management ?

A.- Mr. Prosecutor, in this instance, you are asking too much of me here ; if you ask me about the organization of the illegal camp management, I cannot answer this question on the basis of a list. I can't say such and such or such and such a prisoner was a member. I can only tell you who my superior was, who gave me my instructions, and to whom I reported. It was absolutely necessary to build the illegal organization according to this pattern because if a member of the organization was tortured by the SS in the Buchenwald bunker then, at most, he could only name one man who was his superior and only one man was his inferior. Therefore, he could betray only two people ; and, if the camp or organization had been differently set up there would have been a great misfortune in the camp.

Q.- How many criminals were members of the illegal camp management ?

A.- I believe that is one of the hardest questions that you could have asked me. In view of the fact, that I am testifying under oath, I cannot answer that question definitely.

Q.- Was Arthur Dietzsch, hospital capo of block 46, a criminal prisoner ?

A.- No, Arthur Dietzsch was a political prisoner of many years standing.

Q.- Are you sure ?

A.- Yes.

Q.- Do you know why he was incarcerated in a concentration camp ?

A.- Dietzsch was a former Reichswehr officer and had been punished because within the Reichswehr he had carried Communistic propaganda.

Q.- Had Arthur Dietzsch been in jail for some 20 years ?

A.- I believe he had served 15 years in a penitentiary and from

1934 on he had been in various concentration camps.

Q.- He was classified as a political prisoner ?

A.- Political prisoner, yes.

Q.- And he reported to the illegal camp management that the lice in cages were tied to the thighs of experimental subjects ?

A.- Yes.

Q.- Who tied them on the thighs of the experimental subjects ?

A.- So far as I know, Arthur Dietzsch himself.

Q.- Who was present ?

A.- Dr. Ding, and a doctor from Berlin.

Q.- Was Dr. Hoven there ?

A.- That I cannot answer.

Q.- Was Fritz Kirchheimer there ?

A.- He probably was because Kirchheimer was one of the strangest men in the camp and he was used for such services.

Q.- You state that Dr. Hoven, in order to stop the use of these lice, called the SS officer on the telephone and told him if he didn't return in the truck that he would have to wait later in the evening. Is that in this connection, that you told us that ?

A.- I didn't quite understand the question.

Q.- On direct examination you stated that the second shipment of lice was to be used in an experiment and was, in fact, used and that Dr. Hoven, knowing that the lice was being used, attempted to interrupt the experiments by calling the SS officer from Berlin by telephone and telling him that it would not be possible for him to return to Weimar later in the evening and that the only transportation available was a truck that was leaving immediately and then the SS officer took the available transportation which enable Hoven to destroy the lice. Is that what you tried to convey to us ?

A.- Yes, but apparently there was an error in the translation. It was not an SS officer but a member of the German Wehrmacht.

Q.- I see. Where did Hoven telephone from ?

A.- I have already mentioned this morning that the prison hospital had direct telephonic connections with Block 46 so that there was an opportunity that anybody who had to be called up at any time could be called up.

Q.- Where did Hoven call this Wehrmacht officer from ? Was Hoven in the hospital barracks and the Wehrmacht officer in Block 46 ?

A.- At that time Hoven was in the hospital and was brought by a prisoner immediately to block 46 and apparently was informed by this prisoner in the hospital what was going on at that time in block 46.

Q.- Then he telephoned the Wehrmacht officer and told him a truck was ready to leave. Is that right ?

A.- No. Dr. Hoven then returned with the prisoner from the hospital the one hundred meters to block 46, and called the motor pool.

Q.- Where did the use of the telephone come into play ?

A.- In the hospital.

Q.- Did you hear the telephone call ?

A.- No, but I know all about it because this was a matter that was of vast importance to us prisoners.

Q.- Now, Dr. Hoven telephoned the Wehrmacht officer from the hospital, is that right, and told him the truck was leaving ?

A.- No, Dr. Hoven telephoned in the hospital to the motor pool and had the truck arranged for and thereupon he returned in person from the hospital with this prisoner to Block 46 and probably told this officer personally that the truck was ready for him, that he should seize this opportunity because otherwise he would have to make the long trip from Buchenwald to Weimar that evening on foot.

Q. Then, Hoven proceeded to destroy the lice after the Wehrmacht officer left?

A. Yes.

Q. What was Dr. Ding doing all of this time?

A. Dr. Ding accompanied the Wehrmacht officer to the gate.

Q. Well, was Dr. Hoven the superior of Dr. Ding? Could he destroy the equipment Dr. Ding was using in his experiments without the permission of Dr. Ding?

A. No, it was quite the contrary, but Dr. Hoven was the man in the camp who stood on the best terms with the prisoners and who would normally take charge of such a matter as this. I don't think Ding would have done anything in this case.

Q. Ding didn't have anything to say about it?

A. I am sorry I didn't quite understand the question.

Q. Ding didn't have anything to say about the destruction of the lice?

A. I don't believe Ding knew anything about this occurrence at all.

Q. How much authority could Dr. Hoven exercise over block 46?

A. I know for certain that Dr. Hoven only once was put in as Dr. Ding's deputy for a short period of time. Dr. Ding himself had typhus at that time and, I believe, he was on leave for convalescence.

Q. I am not referring to when Dr. Ding was on leave. When Dr. Ding was present in Block 46, how much authority did Hoven have over it?

A. None at all.

Q. He had authority to go in and destroy the lice Dr. Ding was using?

A. Mr. Prosecutor at the time when Dr. Hoven destroyed the lice that was something he did on his own initiative, and if Dr. Ding had got wind of that he would immediately have had Dr. Hoven punished.

Q. Well now then when Dr. Ding came back and couldn't find his lice, didn't he know about it?

A. Mr. Prosecutor, the situation was often such, that Dr. Ding just came to the camp for half an hour, ordered something or other and



then left the camp and then paid no further attention to the matter.

Q. Dr. Hoven certainly knew whether or not he had experimental subjects that had been infected with lice, didn't he?

A. Yes, that he knew; but if Dr. Ding were told that the cages had locks in them and that they constituted a danger of infecting not only the experimental persons but for everyone in the camp, including the SS officers, I am sure Dr. Ding would have washed his hands and left the camp, because Dr. Ding was not much of a hero.

Q. Who was the most powerful man, Dr. Ding or Dr. Hoven?

A. With out any doubt, Ding, but as far as the illegal activities were concerned, Hoven was the man with more courage, and Ding was a conscientious SS man.

Q. When Dr. Ding was absent from Buchenwald, who was in charge of Block 46?

A. Dr. Hoven was designated as his deputy, but I must add here that Dr. Hoven did not have the plenipotentiary powers to conclude the experimental series or begin a new one.

Q. Would they just stop the experiments and not do anything on them while Dr. Ding was away? In other words, if a person had typhus for experimental purposes, and they were to give him a vaccine or inoculate him later in the course of the experimental series and Dr. Ding left Buchenwald, Dr. Hoven became the deputy in name only and didn't do anything about the experimental series and subjects used out there and just completely neglected it all together?

A. Yes, I am convinced that Dr. Hoven never greatly interested himself in the typhus experiments and when Dr. Ding was absent the prisoner nurses in block 46 were so trained that they could take perfectly good care of the typhus cases in block 46.

Q. Do you know whether or not Dr. Hoven from your own personal knowledge ever selected inmates to be used at the experimental station, block 46?

A. I can answer that question perfectly definitely in the negative.

Q. You know for certain he never participated in any of these

activities?

A. That I know for certain.

Q. Did you handle the records?

A. I saw the records several times in the prison office and there saw the signatures of Leclair and Serna and I know that these persons were in general selected from Berlin and were only German professional criminals or persons in preventive custody.

Q. Did you handle the records? Kindly answer my questions, doctor?

A. I often had the records in my hands, yes.

Q. Did you keep the records? Were you the clerk, were you the clerk in the hospital barracks?

A. No.

Q. Who was the clerk?

A. The prison index card file which had really a thing to do with this matter was under the charge of a man named Roemhild at that time, and the actual files themselves were always in Busse's room; Busse being the lawyer.

Q. Who was that first man?

A. Roemhild.

Q. Ferdinand Roemhild?

A. That is right.

Q. Thanks. Do you recall when block 50 was being constructed?

A. You probably mean when block 50 was started to be used as an experimental station?

Q. That is right.

A. I believe in 1941.

Q. Who had charge of equipping it, so that it could be used as an experimental station? Do you know whether or not it was Dr. Heyden?

A. Dr. Heyden equipped Block 50, but I believe you want to know the names of the prisoners who functioned there...

Q. No, I want to know whether or not Dr. Heyden had charge of equipping block 50?

A. Yes.

Q. How many inmates were there in Buchenwald concentration camp in 1940?

A. In 1940 there must have been no more than 5,000.

Q. How many deaths did you average a month through natural causes?

A. A very small number of natural deaths.

Q. Well how many would that be, ten, twenty, two hundred or five hundred?

A. Mr. Prosecutor, I should like to say that I cannot freely judge in this matter because I have read a great deal about Buchenwald since my release and have read a lot of statistics and on the basis of what I have read I could say that the number was about two percent.

Q. Two percent of five thousand?

A. Yes, that is what I ascertained, two percent of five thousand.

Q. How about 1941? How many inmates in the camp in 1941?

A. Here the development at the camp Buchenwald played a large role. In 1940 at the beginning of the Russian campaign innumerable prisoners of war were brought into the camp and then when the Ukraine was occupied there were innumerable Ukrainian prisoners so that the population of the camp increased rapidly. I believe in one year we had ten thousand new arrivals.

Q. Then in 1941 you had 15,000 people there, you think?

A. That must be approximately correct.

Q. How many deaths did you have then?

A. When the Russian prisoners of war came there were relatively many deaths because these men had walked from the border to the camp and were completely exhausted and emaciated and consequently died in relatively large numbers.

Q. Was it as much as five percent or ten percent?

A. Not as much as ten percent under any circumstances. If it had been possible from the very beginning to treat the captured Russians in the camp hospital, then in many cases death could have been avoided, but there were strict orders from Berlin that the concentration camp and prisoner of war camp, although the prisoner of war camp was within the barbed wire, were to be kept segregated from one another. For instance, a large number of German prisoners were punished because they threw bread over the fence to the Russians. Because of the fact that sick Russians could not be taken into the main hospital, a little special hospital was set up inside the Russian camp. The drugs---

Q. Doctor, just a moment. Can you kindly tell me whether or not the death rate was over five percent, under five percent, ten percent? Do you know? You have made a statement here in direct examination that in 1942 and 1943 the death rate dropped. Now, what was the death rate in 1941?

A. If I spoke of the decrease in the death rate, then I was talking about ordinary prisoners, but now at this moment I am talking about Russian prisoners of war for whom no aid measures had yet been taken.

Q. Well, let's forget the Russian prisoners of war for a moment and talk about ordinary prisoners, inasmuch as you have based your testimony on that. How many prisoners were there in 1941, still 5000, or was that reduced because there had been so many deaths each month? Were there 3800 or how many ordinary prisoners?

A. New arrivals of Germans took place all the time because the campaign against Russia started. All politically unreliable persons were arrested then as "actionists".

Q. How many ordinary prisoners were in the camp in 1941?

A. Approximately 8000.

Q. What was the death rate?

A. I would estimate that compared to the previous year it certainly didn't increase.

Q. It did not increase?



A. No.

Q. That would be two percent again, namely, about 150 people a month?

A. Yes.

Q. How many ordinary inmates were there in the camp in 1942?

A. I would expect that new arrivals amounted to 5000 people.

Q. Five thousand?

A. Yes.

Q. So there was a total of 5000 in 1942 of ordinary prisoners, or is that 13,000 - eight plus five?

A. Quite right - 13,000.

Q. Thirteen thousand. What was the death rate in those 13,000?

A. I believe that it would not exceed the two percent.

Q. Well, now, it dropped, didn't it? You said that when Hoven took over as camp doctor - and he took over in 1942 - the death rate dropped considerably. Now, did it drop one percent or one-half percent? In 1942 it was two percent and now we have a considerable drop because of the efficiency of Hoven. Did that drop lower than two percent now, or didn't it drop?

A. The death rate certainly did not increase.

Q. Did not increase? Did it decrease?

A. Yes, I assume so.

Q. Well, would you say that it would be rather exorbitant to state that 300 inmates died each month in 1942?

A. Mr. Prosecutor, the more the camp was crowded the worse the checks and controls in the camp became. Where one man used to live previously when there were 6,000 inmates there had to be two or possibly three later on. The larger the number of inmates became the worse the living conditions became, possibly not so much from the point of view of food but from the point of view of space.

Q. Well, now, didn't the camp doctor each month submit a report on the number of deaths that occurred during that particular month?

A. I have no information on that subject.

Q. Then you don't know what the death rate actually was, do you?

A. Mr. Prosecutor, I am here under oath. I have to think about every word.

Q. Well, now, did you see or didn't you see the death rate report that was signed by Dr. Hoven and was signed by the camp doctor before him? You had access to these records kept by Roehild and Busse. Now, did you see these death reports?

A. Yes, they were always requested from Berlin concerning the number of inmates in the camp, and how many sick, how many capable of working, how many sent to other camps by transport, and how many dead.

Q. And you saw them?

A. I saw them often.

Q. Well, how many deaths did they allege a month, in round figures, in these reports that you saw in the year 1940?

A. I will take an average figure. It varied from 100 to 120.

Q. 1941? The year 1941 what was the figure?

A. This was in 1941.

Q. I asked you first what the figure in 1940 was and I want the figure now for 1941 and then I want the figure for 1942 and then I want the figure until you left in September 1943, bearing in mind, of course, that you saw these records.

Q. Mr. Prosecutor, with regard to the year 1940 I can't form an opinion or pass judgment because I didn't arrive there until 20 December 1940. As far as 1941 is concerned, I am giving you the figure 100 to 120.

Q. How many in 1942?

A. I would like to stress that quite often large transports arrived in Buchenwald, for instance, from Dachau, from Auschwitz. These people were very poorly fed on their way and had often been severely exposed to weather conditions that they died on the transport. They were unloaded at Buchenwald and immediately increased the death rate in that manner.

Q. How many people did you see Hoven kill?

A. I know definitely that Dr. Hoven killed five people, the names of which I gave you this morning in this court.

Q. Would you repeat those names again, please?

A. Firstly, Kuehnir-Kuehnaraw, a White Russian former general.

Q. Yes, and the other one?

A. Secondly, Bulla, a German national who came, I think, from Litzmannstadt, and then there were three German professional criminals whose names I can no longer give you.

Q. Where did this killing take place?

A. In operating theater No. 2.

Q. Dr. Ding was present?

A. Yes.

Q. What did they kill them with?

A. With an injection.

Q. Phenol?

A. I don't know.

Q. Did anybody else assist the two doctors?

A. There were two prisoners with them.

Q. Who were they?

A. One of them came from Upper Silesia and I cannot give you the name any longer.

Q. You don't know of any other killings by Dr. Hoven?

A. No.

Q. You know that Dr. Hoven states in his affidavit that he participated indirectly or directly in the killing of 60?

A. I will admit that Dr. Hoven knew of killings carried out by the illegal camp administration.

Q. Now, these killings wherein so-called traitors were killed - Dr. Hoven tells me some of them were killed by inmates, is that right?

A. Yes. I can give you a very large number of cases when these people were handed over to the penal company and their fate was then

definitely worse than those of Hoven killings, because the people were thrown out of a second story window of the block so that their skulls were crushed and trodden on with feet until finally dead.

Q. I see. Do you know whether or not camp commandant Koch ever requested that Dr. Hoven execute inmates?

A. Mr. Prosecutor, I believe if Commandant Koch had made such a demand to Hoven that Hoven would have refused unconditionally.

Q. Do you know whether or not Hoven ever offered himself to Koch for that purpose?

A. No.

Q. Do you know the name Goldstein?

A. No. I do know the name Goldstein from Auschwitz.

Q. Do you know the Goldstein that was killed in Buchenwald?

A. No.

Q. Did you ever hear the name Schiltmeyer, S-C-H-I-L-T-E-W-E-Y-E-R?

A. No.

Q. Do you know whether he was killed or not at Buchenwald?

A. No.

Q. Did you ever hear the name C-O-L-L-I-N-E-T, Collinet?

A. Jupp Collinet, yes.

Q. Who killed him?



A.- I know Jupp Collinet for a long time. Jupp Collinet very probably was killed by Hauptscharfuhrer Leclair.

Q.- He wasn't killed by Hoven ?

A.- No, he wasn't killed by Hoven, no.

Q.- You know that for sure ?

A.- That I know for sure.

Q.- Did you ever hear the name Titz - T I T Z ?

A.- No.

Q.- Do you know who killed him ?

A.- No, I don't know the name.

Q.- Did you ever hear the name Freudmann - F R E U D E M A N N ?

A.- I know the name Freudmann.

Q.- You know that name ?

A.- Yes.

Q.- Who killed him ?

A.- That I don't know ; at any rate, not Dr. Hoven. Freudmann had played a vile role in that camp.

Q.- How about May - M A Y ?

A.- The name May is also known to me.

Q.- Who killed him ?

A.- May was killed by Hauptscharfuhrer Wilhelm.

Q.- Did you ever hear the name Motz - M O T Z ?

A.- I was together with the prisoner Motz at Dachau, but I didn't meet him again in Buchenwald.

Q.- Did you ever hear whether or not Dr. Hoven was corrupt ?

A.- Mr. Prosecutor, if you want to understand under the expression "corrupt" that Hoven had a pair of boots made or had a part of his uniform made, then I wouldn't deny that he did, but, on the other hand, I know that these articles which were manufactured in the illegal work shop were only used in order to satisfy Camp Leaders Gust, Schobert and others in order to have them close their eyes to prisoners on some other occa-

sion. Apart from that, everything in the camp of Buchenwald was "corrupt", every human being wanting to live in the camp and wanting to live better than thousands of others had to be corrupt. Of course, not corrupt to the extent that others might perish in the process.

Q.- Did you ever see people give Hoven rings, fountain pens, silk underwear, gold teeth, etc. ?

A.- Mr. Prosecutor, I believe that the defendant Hoven didn't need to have presents given to him by a prisoner.

Q.- Are you familiar with this book written on Buchenwald ?

(Shows book to witness)

A.- Yes, I know it. I know all the literature published about Buchenwald.

Q.- Will you kindly read from page 67 the paragraph I have marked ? I don't have it translated, Your Honor, I merely want these paragraph read.

DR. GALLIK (Interrupting) : I object, Mr. President, I object to the presentation of this book. It has not been introduced as a document. It is not a piece of evidence.

MR. HARDY : Your Honor, I will give it a number. I do not have my numbers. But I will give it a number and offer it formally later. I do not want to use it as a document now. I merely want to refresh the memory of the witness and if he can state whether the facts elicited in this book are true or false.

THE PRESIDENT : Exhibit the book to the Tribunal.

DR. GALLIK : Apart from that, I deny the probative value of this book. It isn't in any way known by whom this book is written, he is not under oath, and the person by whom it is written should be brought to this court if it is to be presented. At this moment, particularly, so many books are being written containing the most exorbitant inaccuracies. In a trial like this one here, such a book can't possibly be called evidence. In that case, the person who wrote the book ought to be brought

here and must be examined and like every witness, must submit to my cross examination.

MR. HARDY : I submit, Your Honor, that in the passages I wish to use in this book the writer there devotes one page to Dr. Hoven. He says that Dr. Hoven was camp physician in Buchenwald in 1940 and 1941 and worked out a racket with a prisoner named Motz whereby inmates of the penal company, for example, - prisoners who were treated somewhat worse than others in that penal company - would be admitted to the hospital for a few days if they would turn over their valuables like rings, fountain pens, silk underwear, gold teeth to this inmate, Motz. Then Motz, in turn, delivered the valuables to Hoven. Then if somebody didn't have valuables to offer, then they would be admitted to the hospital and done away with by injections. Now, I want to know if this witness is familiar with that particular episode.

THE PRESIDENT : The objection is overruled. The question is entirely proper. The book is not being offered in evidence, but the witness may be questioned as to statements appearing in the book.

WITNESS : In order to elucidate on this point that in Buchenwald no inmates.....

DR. GARLIN (Interrupting) : Mr. President, I want to, at least, have an opportunity to see the book before the witness makes a statement on it. As far as I have just been informed, it deals with the year 1940 and, at that time, Dr. Hoven was not even camp physician.

MR. HARDY : It deals with the years 1940 and 1941. I shall ask the witness to read the passage in the book which states that Dr. Hoven was the assistant camp doctor and that he was at the Buchenwald concentration camp serving in the hospital barracks.

THE PRESIDENT : What is your question to the witness ? You asked the witness to read the passage referred to ?

MR. HARDY : If your Honor desires, I would prefer rather have him read the passages .....

THE PRESIDENT : The objection is overruled. The witness may read the passages and, then be questioned by counsel.

MR. HARDY : But for the Tribunal, inasmuch as I do not have this translated, if the witness would read the two paragraphs aloud then the Tribunal could follow my question.

THE PRESIDENT : Very well. The witness will read the two paragraphs aloud.

DR. GOWLIN : Mr. President, may I ask you to check your decision once again. By having these two paragraphs read they will go into the records and become evidence.

THE PRESIDENT : Counsel, the paragraphs will become part of the record but they are not evidence in the case at all. The purpose of reading them into the record is to enlighten the Tribunal as to what the witness is being questioned about, but reading them into the record does not make them evidence.

BY MR. HARDY :

Q.- Would you kindly reading the passages which are marked, Mr. Dorn ?

A.- Certainly :

"In 1940 and 1941 a new doctor arrived in Buchenwald. His name was Waldemar Hoven, SS-Obersturmfuehrer, always kind and nice. He said about himself when he received the War Cross of Merit "You are no hero, but a man who pleases." Hoven was promoted to SS-Hauptsturmfuehrer and became camp physician. With that began his actual career. He had many friends in the fire. One of his sources of supplies was a prisoner named Otto. He had room service to do in the penal company and it was up to him to produce the sick and weak prisoners from the penal company called the "Mousloman" in the sick ward. The granting of a few days decent treatment in the hospital and easy work, granted through the doctor, or admission to the hospital depended upon what the individual delivered to Otto, Mountain pens, rings, silk underwear, golden teeth, etc.



Court No. 1

Parcels with laundry could be sent to every one, at the time, from home. Motz handed the major share over to Hoven. For this he received a free ticket for all his perpetrations which he committed against prisoners in the penal company. Anyone who didn't give presents or pay to Motz was taken into the hospital and injected by Hoven. At the end Motz became a masochist. He no longer had any feeling for proper measures applied to his master and fell into disfavor and one day was finished off within two hours: he was injected. Motz was only one of many sources of supplies for Hoven. He got furniture, carpets and radios for Obersturmführer Voller from the Building Brigade #3, from Cologne, one of our outside Kommandos. Prisoners who were working there were giving aid to blacked-out cities in cleaning-up operations."

Q. Did you ever hear of this?

A. - Dr. Prosecutor, let me tell you, that I'd like to see the prisoner who still had a silk shirt in Buchenwald or a ring. I think I said this morning on one occasion how our wedding rings were pulled off our fingers when we were admitted. Valuables were taken over by the administration office and they were kept in the safe, and I can't give you the name of any prisoner who was walking about in the camp with a gold fountain pen in his pocket. Likewise, the entire affair Motz - you can believe me that - such an unscrupulous man as described here couldn't have survived five days of Buchenwald under such a system. By order of the illegal camp administration our comrades would probably have thrown him into the barbed wire fence. Such excesses in Buchenwald had become impossible in 1940. If you had said in Auschwitz then I am the first to give you an emphatic "yes", but for Buchenwald, since 1940, perfectly orderly conditions existed.

Q. Did you know Dr. Horn?

A. - I knew Dr. Horn very well.

Q. Did Dr. Horn perform most of the operations in the hospital barracks?

A.- He had to whether he wanted to or not, because Dr. Hoven certainly wasn't a good surgeon.

Q.- Was Dr. Hoven studying under Dr. Horn?

A.- Well, I always felt as if Horn was the man who was having to teach Hoven even the smallest type of operation.

Q.- I see. Did you know Pick?

A.- Do you mean the Dutch painter, Pick?

Q.- Yes.

A.- I knew him very well, indeed.

Q.- What was Pick's profession?

A.- Pick was a painter by profession.

Q.- Did he ever paint any portraits for Hoven?

A.- I think not only for Hoven but for every SS leader in the camp. I know for certain, for instance, that he painted Dr. Ding as Wallenstein with a flying clock.

Q.- Did he paint portraits of Hoven's children?

A.- That I couldn't possibly tell you here with certainty.

Q.- Now, you say in block 46 Hoven only went to visit the tailor and shoemaker because he had set them up in business there where they would be free from bother by the SS. How often did he visit the shoemaker and tailor? Did he go over there two, three, four times a week, or how often?

A Yes, you can say that Dr. Hoven visited the work shop generally frequently.

Q How often would that be?

A Every second day, quite frequently.

Q When did they set up this tailor shop and shoe shop in Block 46, was it installed and equipped at the beginning or during the middle of 1941?

A Well, I think the block hadn't been in existence for four weeks when the work shops had also been equipped. The situation at the beginning was that Block 46 could not be entered by anybody not a member of the SS, even with permission, and I believe Dr. Hoven was also affected by the prohibition, consequently the work shop would only have been constructed four to six weeks, or 6 weeks later.

Q How long did the shoemaker and tailor stay in the shop in Block 46, for two years 1942 and 1943, or for how long were they there?

Q Quite decidedly until Hoven's arrest, because I don't remember that the matter was best opened in any other way previously.

A And Dr. Hoven only went to Block 46 to visit the tailor and shoemaker in the workshops, he didn't go there for the purposes of the experiments?

A Mr. Prosecutor, if Dr. Hoven left Block 46 with a parcel under his arm or a pair of boots or a uniform jacket, I can't possibly and really imagine he got those from the sick ward. He probably got those from the work shop.

Q I see. He went over there about every other day?

A Every second day.

Q Did Dr. Hoven have about 500 suits and 300 pairs of shoes; he went there every other day for over two years?

A Yes, that would be so, if Dr. Hoven hadn't been passing on these other things to other people, for instance Gust, Schobert and Biester, they all walked about with shoes soled in Block 46.

Q In other words, Dr. Hoven, a man who was a concentration camp doctor where you had some 15,000 inmates and you had about 260 dying each month had time to go see the shoe man and tailor every other day?

A Mr. Prosecutor, the facts are that the medical work, in fact that the doctors' work in Buchenwald was in the hands of prison doctors in a very considerable extent, for instance you only have to think of the systematic training of nurses. We had an evening school for two or three hours every evening given by Dr. Matuschek and Dr. Horn.

Q Do you know who wrote Dr. Hoven's thesis, did he write it himself or was his thesis to become a doctor written by Dr. Wegerer of Vienna?

A Mr. Prosecutor, all I can tell you is what I happened to read a few days ago in a book. It says there that Dr. Hoven's thesis had been written by a certain Dr. Wegerer from Vienna. This man is supposed to be a doctor or professor of chemistry. I read that a few days ago. I can't give you any certain information on that subject.

Q In the hospital barracks how often did you see Hoven, did you see him continually each day?

A I saw him daily.

Q You saw him also administer injections to five persons, that is all?

A That killing I observed.

Q And you state that Dr. Hoven is correct in his figure of 60 killings either by inmates or by himself?

A I can't answer that.

Q And these inmates, according to Dr. Hoven's affidavit, 60 persons were killed and others were beaten; of those 60 persons he states that some of them were killed by inmates, is that right?

(No response.)

Do you have a copy of Dr. Hoven's affidavit, please?



This is paragraph 12, Document Book 12, Document NO 429 on page 5 of the German, paragraph 12; will you kindly read that, Mr. Dorn, an affidavit by the defendant Waldemar Hoven?

Q "The total number of killed traitors was approximately 150, 60 of which were killed by phenol injections either by myself or under my direction, and the rest were killed by various methods such as beatings by the inmates."

Q Well now, he states that there were killings either by himself or under his direction, is that right?

DR. GAVLIK: Mr. President I wish to object to the submission of this affidavit. The affidavit hasn't yet been admitted in evidence. It is an affidavit that has not yet been admitted. Its admission has been retarded until defendant Hoven is put on the stand.

MR. HARDY: I was not aware of that, your Honor. It bears an exhibit number. It isn't a fact that it is not admitted in evidence. This is something new today. We have been using it throughout our cross-examination continually. It certainly has been admitted into evidence. If it hasn't been admitted which is something I can't imagine, then it has been overlooked by the Prosecution in the presentation of its case in chief, and we submit it at this time. The document is in order, it contains a jurat, is sworn to and signed by the defendant.

THE PRESIDENT: The first question is to determine whether the document has been admitted in evidence. I will ask the Secretary General to produce the original document and determine how it is marked.

MR. HARDY: Do you have the prosecution exhibit number? Your Honor, I don't know the exhibit number off-hand.

THE PRESIDENT: It is document No. NO 4200.

MR. HARDY: Do you have the Prosecution exhibit number marked in your document book, Your Honor?

THE PRESIDENT: I cannot tell from this book. There is a symbol after that, but what it is I --

MR. HARDY: Mr. Travis will have it in his file of the prosec-

ution numbers. If he will call my office phone, 61212 and ask for Dr. Hochwald to give him the prosecution exhibit number of that document, he will be able to secure it.

DR. GAWLIK: Mr. President, I had placed an objection to the admissibility of this document, it has once been submitted and then its submission was put back until Dr. Hoven has been examined. I haven't got the record of that before me. I will have to wait until tomorrow, but I could submit the record of it.

MR. HARDY: Your Honor, I submit if that is true then all the other documents admitted in evidence were admitted incorrectly by this Tribunal. This document here is no different from any other affidavit we have submitted. I am sure it was admitted and there is prosecution exhibit number, and I would like to finish up my examination and I only have three or four more questions and clear them from his affidavit.

DR. GAWLIK: I have given detailed reasons for my objection. The document was submitted to Dr. Hoven at that time in the English language and not in German, and Dr. Hoven has not sufficient control of the English language for the knowledge of examining on it. No interpreter was present at that time. That was the cause of the objection and the Tribunal decided that admission would be put back until after the examination of Dr. Hoven. For that reason, I will object to today's use of the document.

MR. HARDY: I proceed to another question or two, Your Honor, while we are waiting for the document.

BY MR. HARDY:

Q Mr. Dorn, do you know for what reason Dr. Hoven was arrested by the SS?

A I can only repeat my explanation which I gave this morning. As far as I am informed Dr. Hoven was arrested because the suspicion existed against him he was cooperating with prisoners, cooperating with them extremely closely and as time progressed the suspicion

increased. Professor, Dr. Hoven is supposed to have been arrested because of the case with Hauptscharfuhrer Koehler. Just how this affair developed is something I am not informed about. I only know that it was 12 September 1943 Hoven was arrested on leaving the camp.

Q Do you know whether or not any other officers of the camp were arrested at the same time?

A I know that the commandant Koch was arrested, but I can't tell you with certainty today whether Koch was arrested earlier or later than Hoven, and I know at that time Oberscharfuhrer Sommer was arrested. I don't know what connections there were.

Q You don't know whether Koch was also arrested for collaboration with the inmates?

A Koch? I think he was the biggest devil we prisoners ever clasped eyes upon.

Q Do you know whether or not Hoven was indicted after being arrested?

A That I do not know, because on the 20th of September 1943 I left Buchenwald and then never again established contact with Buchenwald.

Q Do you know whether or not the camp commandant Koch and Hoven were indicted in the same indictment?

A No, I don't know.

Q Do you know that Camp Commandant Koch and Dr. Hoven were charged with fraudulent conversion of Reich's funds, of frauds on concentration camp inmates for their own benefits, and condoning and fostering corruption in the camps.

A Mr. Prosecutor, I know that Koch and his brother-in-law, Hauptscharfuhrer Michael were arrested for corrupt actions in the camp.

Q You know that Hoven was arrested in the same case along with Koch?

A No. My information is to the effect that it was because

of the case of Hauptscharfuhrer Koehler that Koch was arrested.

Q Who? Hauptscharfuhrer who?

A Hauptscharfuhrer Koehler.

Q Was he a witness against Koch?

A I can't tell you that. If I had remained in Buchenwald then I would certainly have had the exact details the fortnight after Hoven was arrested.



Q. Well, what was the reason why the Hauptscharfuhrer was connected with the arrest of Goven?

A. Well, the Hauptscharfuhrer Kuehler was imprisoned by the commandant's office at the time.

MR. HARDY: Your Honor, this affidavit of Goven has been admitted into evidence as Prosecution Exhibit N. 281.

THE PRESIDENT: Submit the document to the Tribunal. Submit the document to the defense counsel. Apparently it has been in evidence as a prosecution exhibit.

DR. GAWLIK: Mr. President, this exhibit, the affidavit, as far as I remember, was given the number when it was submitted and I raised the objection. Following that, the Tribunal's decision was made to my recollection. I can only now recall from memory but I will submit the statement to the Tribunal when I can read the record and all of the defense counsel are willing to concur in the fact that the admission of the document was put back.

MR. HARDY: Then your Honor, I submit this document has been admitted into evidence, if it had not been admitted into evidence it would not now be in the hands of the Secretary General but it would still be in the hands of the prosecution.

THE PRESIDENT: Certainly, if appears that the document has been admitted in evidence, it has been assigned a number. It is almost time for a recess until tomorrow morning and after the Tribunal recesses this evening, the entire matter can be studied, the record can be read and the testimony at the time can be examined.

MR. HARDY: Your Honor, I have only one or two questions on this document. If it is necessary I will offer it now and give it another exhibit number. It is in good order, it has a jurat on it, it is signed by the affiant and dated. It is perfectly admissible.

THE PRESIDENT: That would be saving no time and it would probably take longer than until the recess time.

I will remember in connection with at least one of these affidavits by one of the defendants, either by this one -- although I believe

it was another defendant that a question was raised as to an affidavit and the Tribunal admitted the affidavit but ruled that when the defendant took the witness stand he could be asked concerning the circumstances under which the affidavit was made and at that time its probative value before the Tribunal would be considered, but the mere fact that an affidavit has been admitted in evidence does not establish its probative value as the Tribunal may consider it because circumstances may be shown when the affiant takes the witness stand that would defy the affidavit and if so more or less weight might or might not be the case.

Are there any other questions you can propound to the witness without using the affidavit now?

MR. HARDY: After looking it over, Your Honor, I can propound the same questions without using the affidavit.

BY MR. HARDY:

Q. Was Dr. Hoven assisted by inmates when he performed these killings in the hospital barracks of the Buchenwald concentration camp?

A. I did not understand your question correctly, Mr. Prosecutor.

Q. Was Dr. Hoven assisted by inmates when he performed these killings in the Buchenwald concentration camp?

A. Yes, there were two prisoners who were present.

Q. Did other inmates ever kill the so-called traitor inmates in the concentration camp?

A. Did other prisoners kill the so-called traitors in the concentration camp; was that your question?

Q. Yes, were other traitor prisoners killed in the concentration camp by inmates.

A. Very often.

Q. Was that done under the supervision of Dr. Hoven?

A. No.

Q. Did he know about it?

A. He could not know because death reports always were made to appear that it was a normal death.

Q. What did the inmates kill the so-called traitor inmates with; did they kill them by injections?

A. Mr. Prosecutor, I have already told you once before what the scene looked like in the penal company, they were thrown out of the second floor window and it really happened that prisoners used the so-called injection syringe, but these were few and far between.

Q. How many inmate assistants did Dr. Hoven have in his capacity as camp doctor?

A. Do you mean those who worked with Dr. Hoven all the time?

Q. Yes.

A. It was generally Dr. Horn and Dr. Matuschek in OF 1 -- Internal Operations in the Medical wing. OF 2 there was a certain Hellmuth Diekmann and another man and I can no longer remember his name, I do know that the man came from Upper Silesia and I can see him with my own eyes but I cannot remember the name. He had a Polish name which it is difficult for me to pronounce.

Q. How many nurses did he have; men in your capacity?

A. Altogether possibly 90 men, possibly more than that.

Q. Now, realizing you are under oath, can you tell this Tribunal how many men you assisted in the killing of with Dr. Hoven?

A. To that I can answer with a calm conscience that I did not assist with a single killing, nor assist in any manner, nor was I present at any time.

Q. How many men did you kill when Dr. Hoven was not present?

A. I have never killed a human being.

Q. You had access to the drugs, didn't you?

A. No, but to the phenol drugs no one had access.

Q. When you know they used phenol in killings in Buchenwald?

A. I think everybody who ever worked in the sick bay knew that.

Q. I have no further questions, your Honor.

THE PRESIDENT: Counsel, how much time will your re-examination of this witness consume?

DR. GAWLIK: I just heard that my colleague, Dr. Nolte, has a few questions and I would say about fifteen to twenty minutes for myself.

THE PRESIDENT: I would desire that the investigation be made now before tomorrow morning to ascertain the status of this affidavit of the defendant Moohan. The Tribunal would like to know whether it was formally admitted in evidence or whether it was not because the record indicates it was and if the record is incorrect. The Tribunal would like to be advised.

The Tribunal will be in recess until 9:30 o'clock tomorrow morning.

THE MARSHAL: The Tribunal will be in recess until 9:30 o'clock tomorrow morning.

(The Tribunal adjourned until 0930 o'clock, 6 June 1947.)



Official Transcript of the American Military  
Tribunal in the matter of the United States  
of America, against Karl Brandt, et al,  
defendants, sitting at Nurnberg, Germany, on  
6 June 1947, 0930-1630, Justice Seals presiding.

THE MARSHAL: Persons in the courtroom will please find their seats.

The Honorable, the Judges of Military Tribunal I.

Military Tribunal I is now in session. God save the United States  
of America and this Honorable Tribunal.

There will be order in the courtroom.

THE PRESIDENT: Mr. Marshal, will you ascertain if all the de-  
fendants are present in court?

THE MARSHAL: May it please your Honors, all the defendants are  
present in court.

THE PRESIDENT: The Secretary General will note for the record  
the presence of all the defendants in court.

The witness is reminded he is still under oath.

Counsel may proceed with the examination.

PAUL DOB - Examined

REDIRECT EXAMINATION (Continued)

BY MR. WHITE (for defendant Paul Dob):

Q. Witness, during your examination and cross examination you  
have a plan of the consignments of typhus carrying lice to Buchenwald.  
And, if my notes I took are correct then you said in that connection  
it was generally talked about in the camp that this officer from Cracow  
came from an institute of the Ahnenerbe. Is this note of mine correct?

A. Yes, your note you took is correct.

Q. You cannot tell anything, therefore, from your own personal  
knowledge?

A. No.

Q. Do you believe that Dr. Jovan knew from where this dispatch  
of lice came?



A. I assume yes.

Q. Well, now if you were to assume that Dr. Hoven knew that this consignment of lice did not come from Cracow and not from an Institute of the Armed Forces and if Dr. Hoven were to testify this under oath, would you then believe that the rumor circulating the camp which reached you too, was false?

A. Yes.

Q. I have no further questions, I should merely like to draw the attention of this Tribunal to Dr. Hoven's affidavit, Document Ha-13, Exhibit 9 which states "the consignment of lice which are mentioned in Ding's Diary and in the testimony of Kogon and Kirchheimer came from Dr. Haas from Lamsberg. The reason why I know this to be accurate is, that I told Dr. Haas the lice were destroyed. I can therefore say from my own personal knowledge that the statements of Kogon and Kirchheimer-(Dr. Kogon was not yet with Dr. Ding at that time) -were erroneous, namely, that assignments of lice came from Cracow."

Thank you very much.

DR. GAWLIK: Mr. President, to begin with, I should like to speak about the affidavit which came up for discussion yesterday and I would like to say that the decision of this Tribunal is in the record of 3 January 1947, on page 1118 of the German record; and this ruling of the Tribunal states that the Tribunal has ruled that to begin with the affidavit can be admitted subject to a later objection by the defendant Hoven and that the defense is not showing whether the defendant Hoven has answered any questions at all. Should he have been interrogated without having been properly warned, he can say so on the witness stand at a later date. If he did not understand the English language and if the affidavit was not translated to him, he will be able to clear that up, too; but it was admitted provisionally without prejudice to the right of defense counsel to later object to its admissibility. If the Tribunal should then assume that this affidavit is not to be admitted in evidence then it will be struck from the record.

THE PRESIDENT: Counsel is correct. That is the ruling of the Tribunal.

MR. HARDY: May it please your Honor, to note for the record, the contention of prosecution of this matter during yesterday's session is correct?

THE PRESIDENT: The record will be made to show exactly what happened and will speak for itself.

BY DR. GAWLIK:

Q. Witness, the nurses in Block 46 — did they act independently to a considerable extent?

A. I wouldn't so much say the nurses as the prisoner Kapo, Arthur Dietzsch.

Q. If Dr. Ding was absent, was it necessary at all in such cases that an SS Doctor took his place?

A. No, all the work and every action was carried right out by Dietzsch, Dietzsch independently.

Q. Did defendant, Dr. Hoven, have the essential knowledge in order to give orders to Dietzsch and the other nurses who were working in Block 46?

A. I have already said before that I never thought that Hoven was a good doctor and I hardly think that he took as much interest in the typhus experiments as was necessary for him to give instructions.

Q. Is it true that you met the nurses working in 46 repeatedly?

A. Yes.

Q. And did you also talk about during such meetings that King's experiments were carried out by the Kapo Dietzsch?

A. But, of course -- we, the prisoners, interested ourselves considerably in these matters and we had it confirmed repeatedly that Dietzsch and Ding carried them out alone in Block 46.

Q. It would be correct to say then that amongst the nurses of Block 46 and the nurses in the sick bay the general assumption was that these experiments were carried out by Ding and Dietzsch but not the defendant Hoven?

A. Yes, indeed.

Q. The figures relating to deaths were discussed yesterday, the Buchenwald death figures, that is, and you said that you had read various publications about Buchenwald which showed that the death rate never exceeded 2%.

A. Quite correct.

Q. But this wouldn't exclude the possibility, would it, that the death rate in Buchenwald was considerably



lower temporarily. That is correct, too, isn't it?

A. (No response)

Q. In order to refresh your memory, I now submit to you, not as an exhibit but merely for this purpose, a document which has been submitted to Tribunal II in Case IV and I would like you to read please — read aloud, the death rate in the concentration camp of Buchenwald from it.

MR. HARDY: Is it proposed to offer this document in evidence here?

DR. GAWLIK: No, I don't want to submit it in evidence, as I have already told you. I am merely using it to refresh the memory of this witness. That is the purpose and also to question him on it, of course.

A. The death rate —

THE PRESIDENT: Just a moment. Did this witness testify before Tribunal II?

DR. GAWLIK: No.

THE PRESIDENT: Well, you asked him to read this affidavit into the record. That is not refreshing his recollection. He is not testifying from his own recollection when he answers your question. He is simply reading this exhibit. If he knows he may glance at that to refresh his recollection then he could testify from his own knowledge but if he is simply reading a record he is not testifying from his own recollection at all.

DR. GAWLIK: I shall put a few questions subsequently with reference to it but, if you like, I will read it.

MR. HARDY: Inasmuch as that is the case, Your Honor, I suggest that the defense counsel process the document in due form and offer it as an exhibit.

DR. GAWLIK: No, I don't want to submit it as an exhibit.

THE PRESIDENT: Counsel may present to the Tribunal a certified copy of this exhibit which would be admitted in evidence or if the witness has his own recollection, he can testify from his own knowledge as he pleases. He could also be asked whether or not he agrees with the statement in the document.

DR. GAWLIK: I now propose to read this figure and then ask the witness whether the figures are correct and I beg to have your decision whether this is permissible.

THE PRESIDENT: Counsel may proceed. Of course, you understand, Counsel, that the document will not become evidence unless it is introduced before the court.

DR. GAWLIK: No I don't want to submit it in evidence. I am merely using it in order to give a basis to my question.

This is a letter from Pohl dated 30 September 1943 and addressed to Himmler. Attached to it is a table of death figures for the month of August, 1943, in concentration camps. It mentions Buchenwald and there the strength was 17,600 detainees and the number of deaths was 118, equalling a percentage of 0.67%.

THE PRESIDENT: Counsel, there was that many deaths in what period of time?

DR. GAWLIK: August 1943, Your Honor, the month of August 1943.

THE PRESIDENT: For one month, and that was the record.

DR. GAWLIK: The average for all concentration camps in August 1943 was 2.09%.

BY DR. GAWLIK:

Q. Is it correct that it was owed to defendant, Dr. Hoyer, that the death rate for the concentration camp of Buchenwald was considerably lower than the overall average?

A. Yes, that is correct.

Q. It was later mentioned during the cross examination whether you knew anything about the death of Jupp Collinet?

A. Yes.

Q. Will you describe this case in detail?

A. I knew the prisoner Jupp Collinet during approximately two years. I know that Jupp Collinet came from Aid-la-Chapelle and that he owned several houses there. The special commissioner of the political section of Buchenwald had been a criminal commissioner in Aschen earlier and he had a row with Jupp Collinet in the course of which Collinet fired a shot at Leclair. Later on Leclair went to the political department of Buchenwald as a special commissioner and amongst the prisoners there he recognized Collinet. Following efforts made with the camp Kommandant, he succeeded in getting an order for Collinet's liquidation. I know for certain that Collinet was not killed by Dr. Hoven. On that day, on the day when Collinet had been beaten half to death and was brought to the sick bay, Hoven wasn't present in the camp. The killing was carried out in the presence of the first and second camp leader, Max Schober, and Untersturmfuehrer Gust. I cannot give you any more detail about this affair.

Q. Is it correct that the political section was under the secret state police?

A. Yes.

Q. You were speaking about gypsies yesterday and the grouping of gypsies. Do you have anything to add to that part of your testimony?

A. I can merely say that initially all gypsies were arrested for racial reasons. Later on this was changed. Some of the Gypsies who were not declared as social elements

Court 1  
June 6-M-2-6-ED-Primeau-Frank.

were removed from Dachau to the labor houses in the Rebdorf  
Bavarian penitentiary.

DR. GAWLIK: Mr. President, I have no further questions.

THE PRESIDENT: Does the prosecution have any more  
questions to be propounded to the witness?



RE-CROSS EXAMINATION

BY MR. HARDY:

Q.- What is the extent of your education?

A.- Initially I was a waiter at the Grand Hotel in Murnberg. For conditions in my family I had to give up this profession and I was re-trained as a motor mechanic. As a very young man I went to Africa and I was a soldier in the French army for several years. In 1938 I returned to Germany and went into business on my own. After the German capitulation I started afresh, starting as a taxi owner.

Q.- Are you a graduate of any University?

A.- No.

Q.- Can you tell us whether or not from your knowledge Dr. Hoven was considered to be a so-called ladies' man?

A.- I don't quite understand, a so-called what?

Q.- Ladies' man.

MR. CANNON: Mr. President, I object to that question. First of all this is an utterly irrelevant question, and secondly, I believe that now in the re-cross examination only such questions can be put which are due to my re-direct examination. I do not believe that a cross examination can be started all over again after the Prosecution had completed cross examination yesterday.

MR. HARDY: I submit, Your Honors, this is a question concerning the character of the defendant.

THE PRESIDENT: Defense counsel states the rule correctly but the practice of this Tribunal allows very liberal direct examination and cross examination, and counsel for defense, of course, may re-examine the witness in connection with any matters which are new. The objection will be overruled.

BY MR. HARDY:

Q.- To your knowledge, did Dr. Hoven have mistresses, that is lady friends other than his wife?

A.- One might well assume so.

Q.- Do you know whether or not Dr. Hoven had relationships with the wife of the Camp Commandant Koch?

A.- Quite decidedly no.

Q.- You don't know that?

A.- This would not have remained unknown in the camp.

Q.- Are you married, witness?

A.- Yes, me?

Q.- Yes.

A.- Yes.

Q.- How long have you been married?

A.- Since the 10 of August last year.

Q.- How friendly were you with Hoven while you were in the Buchenwald concentration camp?

A.- I must say that I had a large number of advantages through Hoven but there was never a relationship which you could call friendship between Hoven and myself. I have never talked with Hoven off duty.

Q.- Did you wear a violet triangle?

A.- No.

Q.- Witness, when you were testifying here on direct examination, I noted that you were using notes to refresh your recollection, do you still have those notes before you?

A.- No.

Q.- Where are those notes?

A.- I only have before me here the names which Mr. Prosecutor read out to me, Dietzsch and Collinet and others.

Q.- What did you do with the notes you were using to testify why?

A.- I am not sure but I think they are lying on the table in my apartment.

Q.- Were those typewritten notes, some of them?

A.- That I don't know.

Q.- Well, who prepared the notes?

A.- Pardon.

Q.- Who prepared the notes?

A.- Nobody has prepared anything for me.

Q.- Well, you had typewritten notes before you when you were testifying yesterday; who typed those notes for you?

A.- As soon as I knew I was coming to Nurnberg, of course, I prepared myself with reference to the trial, for I was able to tell approximately the questions which would be put to me.

Q.- Did Dr. Gawlik give you any typewritten notes?

A.- I talked with Dr. Gawlik a few days before appearing here.

Q.- Did he give you any typewritten notes?

A.- No, I filled a typewritten sheet before me which had 14 questions on it, and I sent it to the Tribunal.

Q.- Did you have any other typewritten notes before you?

A.- No, only what I wrote with my own hand.

M. HARRY: I have no further question.

THE PRESIDENT: Defense counsel may examine the witness, if he desires.

DR. GAWLIK: I don't have any further questions.

THE PRESIDENT: There being no further questions to be propounded to the witness, the witness will be excused from the stand.-

The Tribunal will proceed with the case against Beiglboeck.

DR. STEINBAUER: (For defendant, Professor Dr. Wilhelm Beiglboeck, from Vienna.)

Mr. President, Your Honors, I shall begin the case on behalf of my client, Dr. Beiglboeck, by reminding you with one sentence of my opening speech. First of all, I want to picture to you the personality of this defendant and then I shall show that he carried out sea water experiments against his own will under explicit military orders, and, thirdly, he carried them out in such a way that you cannot conclude

crimes against humanity or war crimes from the way they were carried out.

In order to draw you a good picture I should like to remind you of an air railway, when I speak of my representation as an air railway, as a new rope, and that is represented by the defendant on the witness stand and the few documents, and on the contrary if that rope were to break then I have the safety rope. The scientific pillar, namely, the evidence that bears on internal medicine it is out of the question, that these experiments can be called criminal. - I am not pleading Mr. Hardy, I am merely explaining. I am awfully sorry Professor Alexander has had so much work to do but I should like to save work for the Tribunal and myself and the scientific description lists, I think the first has 132 pages, and I would like to save my honored colleague, Mr. Hardy and myself the trouble since we are no experts and also I would like to put all of these scientific questions back. I would like to ask you, Mr. President, that my client, Dr. Beiglboeck, take the witness stand as a witness now.

THE PRESIDENT: The defendant Beiglboeck will take the witness stand.

The defendant Beiglboeck took the witness stand and testified as follows:

BY JUDGE SEHRING:

Q.- Please raise your right hand and be sworn: repeating after me:

I swear by God, the Almighty and Omnipotent, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath)

You may be seated.

DIRECT EXAMINATION

BY DR. ST. RAUER:

Q.- Your name is Dr. Wilhelm Beiglboeck, isn't it, and you were born on the 10 of October 1905 at Hochneukirchen in Lower Austria, as the son of a country doctor. You attended the secondary school at the



Court No. 1

Benedictine Monk' College in Melk and you studied medicine at the University of Vienna and there got your degree, didn't you?

A.- All of that is correct.

Q.- What is the medical training you had?

A.- I first of all began working clinically, pathology and anatomy. I turned to internal medicine and after I was promoted I joined the third medical clinic in Vienna, the chief of which was Prof. Dr. Chwostek.

Q.- Who was Professor, Dr. Chwostek?

A.- Chwostek was the son of an also very well known and famous internal medical man, a student of Meisner and Neussart, and also acting as an internist and neurologist, and was particularly famous for his diagnosis and was highly esteemed in this field and sought after in the whole of Europe as being a representative of the typical old Vienna school.

Q.- How long did you remain with Professor Chwostek?

A.- I stayed with him as long as he was the head of that clinic, in other words, about two years, and then Chwostek was pensioned off and his clinic was dissolved, and I went to the first medical clinic, the chief of which became at that time Professor Spinger.

Q.- Spinger, he has been mentioned here quite often - who was Spinger?

A.- It is difficult to say, in which field of internal medicine Professor Spinger did not contribute highly important work. Even when he was young he became famous because of his work about internal secretions, particularly activities of the thyroid gland, and he carried out research into the vegetative nervous system and created with Vaso the conception of Vago Vasomotoricus.

Q.- You have to speak more slowly and make short sentences.

A.- These two conceptions have become general knowledge in medicine today. Spinger then worked on kidney diseases, dropsy and later on

6 June-4-FL-3-6-Cook (Int. Prink)

Court No. 1

Banksbach's scholar he worked on shock and collapse treatment and he became the man who cleared up the causes of collapse to a considerable extent and modified and cleared it up in a basic manner.

A. (continued) Later on he worked on metabolism of heart diseases, and he created a basis for the functional disease of the heart science. His first work was on pathology of the liver and his research in this field created complete novelty. It was due to this that his reputation became international, and it was later on that he devoted his entire research to this field apart from hundreds of smaller works in the metabolism field. The name Eppinger was known the world over and I do know, as his chief deputy, that his scientific correspondence extended to all countries of the world. The external symptoms of this international reputation as a physician and scientist was that doctors from every country of the world -- Europe, America, Asia -- worked in his clinic all the time and that Eppinger himself was called abroad a great deal, also, as a doctor, of course. I only want to say that he treated Kemal Pascha, that the Queen of Roumania called him, and the King of Bulgaria and that he also treated Marshal Stalin.

Q. I think that is enough in order to elucidate the international importance of Professor Eppinger.

A. I would say that it was this international reputation which was the reason he received a professorship in Vienna. It was known quite well why Eppinger became a University professor. The conception that he was an ass is certainly not held by me.

Q. Professor, how long did you remain in Eppinger's clinic?

A. It was in 1936 that I became Eppinger's assistant following Austrian regulations. In 1939 I became his chief assistant doctor and in 1940 I was given the title of chief medical officer. I remained with him until the end of the War at which time I was released. I had been called up to the Army since 1941 and remained there on the strength of the clinic only nominally.

Q. When were you habilitated?

A. My habilitation occurred in 1939 and in the beginning of 1940 I was given the title of Dozent (lecturer).

Q. That is a very long period. How do you explain that?

A. Contrary to the custom in Germany the Austrian habilitation regulations prescribed it that first of all you had to spend eight years in a clinic before qualifying for habilitation.

Q. Well, now it might be said that you are a Nazi professor. If we, the Austrians, had not been occupied would you still have become a professor?

A. As early as the beginning of 1938, before the Anschluss Eppinger had given me instructions to prepare my habilitation and he had already taken the first steps in the Collegium of Professors in Vienna.

Q. When did you first become a University Professor?

A. It was in 1943 that Eppinger submitted my name for this nomination and in June 1944 I was nominated.

Q. Were you a member of medical unions or academies?

A. I was a member of several medical unions, particularly in Vienna - the Order of Doctors of Vienna, Society of Internal Medicine in Vienna, Society of Micro-Biology in Vienna, and Biological Society in Vienna. I was also a member of the German Society for Internal Medicine and German Society for Circulation Research.

Q. Did you also write scientific works yourself?

A. Yes, I did.

Q. Mr. President may I submit a few documents with reference to what has been said so far and I shall be as brief as possible. As Boigbodeck Exhibit I I offer the affidavit "Testimony of the Medical Faculty of the University of Vienna" and I present this to the Tribunal. I shall read from page 2 of the Document Book.

MR. HARDY: May I ask defense counsel if he proposes that the Dean of the University is acting as notary here?

DR. STEINBAUER: I can show Mr. Prosecutor the original but since this is a vital document to my client who will need it later on I have had it photostated and I am certifying that it is a true copy. Please would you give the original to the prosecutor.

MR. HARDY: No objection, your Honor.



BY DR. STEINBAUER:

Q. I shall read from this document, from the middle of the second paragraph: "Especially apt for the quick orientation at the sick bed, Dr. Beiglböck showed splendid diagnostic ability. He is fully conversant with all modern methods of examination and treatment."

And then the final paragraph: "His engaging manner, his diligence, his great skill and, last but not least, his humane behavior towards the patients entrusted to his care, have always brought him the fullest recognition from his superiors."

I also submit to the Tribunal Exhibit Beiglböck No. 2. It is a certificate from the First Medical Clinic of the University, dated 11 January 1935. Again it is submitted as a photostatic copy. I shall read paragraph 2 of that certificate: "He shows a special interest..." That's Beiglböck. "He shows a special interest in the execution of scientific research, which has enabled him to write, at my clinic, a series of excellent works, in connection with which special attention must be drawn to his great thoroughness and exactitude."

Exhibit No. 3 which I now submit is the testimony from the First Medical University Clinic Prof. Dr. Hans Eppinger, dated 18 December 1943. I shall read only one sentence, the last sentence of that document. I quote: "I look upon the said person, in whose appointment as a lecturer in 1940 I was instrumental and whose appointment as a Professor extraordinary I proposed, as the ablest of my pupils."

Exhibit No. 4 which I now submit to the Tribunal is an index of the scientific works written by Prof. Dr. Beiglböck. It lists 59 works written by him and 11 demonstrations -- a selection of them.

Witness, I shall have to ask you with reference to that document, did you yourself write the works listed in that index and publish them?

A. I published the bulk of them and wrote them all. Some of these works, two or three of them, I am not sure, weren't printed as far as I know. I composed this index on the basis of a list which I still hold and I composed it to the best of my knowledge.

Q Thank you. The next document is a letter from a nurse of Eppinger's Clinic. It is Exhibit 5.

MR. HARDY: May it please the Tribunal, exhibit 5 is merely a letter written to Steinbauer. It contains no jurate as to the signature of the writer of the letter. Hence it is not admissible by the Tribunal.

DR. STEINBAUER: Mr. Hardy is perfectly correct. Because I knew you were going to come out with that objection I sent the letter back to Mrs. Brever and asked her to have her signature notarized. Therefore I submit to the Tribunal a document which is properly certified by notary although my signature would do it just the same.

MR. HARDY: Your Honor, I submit that document is not admissible. I object to its admission.

THE PRESIDENT: Does the Tribunal understand from counsel that the document is now properly certified? It will be submitted as such.

MR. HARDY: It is not properly certified. The certificate put on by Dr. Steinbauer was put on after the date of the signature.

DR. STEINBAUER: The Prosecution hasn't understood what I said. I received this letter of Mrs. Brever and since she gave it to me personally I certified its authenticity but in the meantime the Tribunal has ruled in spite of the fact as of 11 March 1947 all signatures were to be notarized by a Notary. Consequently I returned this to Mrs. Brever and asked her to have it certified by a notary.

MR. HARDY: Just a moment. I will have Dr. Alexander look at it. The English document doesn't indicate this and I can't read the German.

No objection, your Honor.

8672

DR. STERNBAUER: In that case, subject to the Tribunal's permission I would like to read the letter, I quote:

"From 1937 Professor Dr. Wilhelm Biegelboeck was my superior at the clinic of Prof. Lippinger, ward C 2. In March 1938 I was to be dismissed from the clinic for my outspoken antagonism towards national socialism. Professor Biegelboeck stood up for me in the most helpful manner, and succeeded insofar that I was left in my position. In the course of the following years I was often attacked, because I tried continually to fight against the Nazi Regime, and it was always Prof. Biegelboeck who helped me. After the days of the Jewish Pogrom I heard Dr. Biegelboeck say to a colleague whom he knew well: 'I will not take part in this, this is too much for me, we do not want this.'"

"I write these lines freely and without constraint, in gratitude for the assistance which Biegelboeck gave me from 1938 until the time of his Military Service (1941)."

The next document I submit is a certificate from the Medical University Clinic, Professor Dr. Heilmeyer, which is page 96 of Document Book I.

THE PRESIDENT: What document number is this?

DR. STERNBAUER: Exhibit 6.

THE PRESIDENT: What document number does it bear?

DR. STERNBAUER: Number 24. I beg your pardon.

MR. HARDY: May I ask counsel if it contains a jurat?

DR. STERNBAUER: Mr. Hardy, this is a certificate of the University Medical Clinic. In order to meet a possible objection by the Prosecutor I have returned this testimony to the Professor with an order to return it to me properly certified immediately. Unfortunately this letter has not yet come back since the mail takes about a fortnight, but I would like to ask that it be admitted provisionally until the sworn certificate is returned to me. Actually it is only a University Clinic headed by Professor Heilmeyer, and perhaps you will be good enough to show this to the President.



MR. HARDY: The document has no jurat.

THE PRESIDENT: The Tribunal will admit the document provisionally subject to the correct certificate being added later.

DR. STEINBAUER: I don't even want to read the whole document, only the first paragraph.

"I made the personal acquaintance of Univ. Prof. Dr. Wilhelm Beiglboeck of Vienna, at lectures given at scientific meetings. I have known his scientific works however, for a long time. He drew particular attention to himself through his excellent work as a pupil of the most prominent German internist, Prof. Eppinger. In particular, his research into the effects of various vitamins and into the pathology of the liver and epidemic Hepatitis has made a great impression. Prof. Beiglboeck is doubtless among the most promising research workers in the field of internal medicine. I know also, that Prof. Eppinger always spoke of him in terms of the highest regard."

Q. Now, let's carry on; witness, what about your military service, how did that progress?

A. In May of 1941 I was called up into the German Air Force as a Medical Soldier, and my basic training I passed in Baden near Vienna. In August of 1941 I became a non-commissioned officer, and I was sent to the air force hospital at Wels, Austria, and I was promoted to non-commissioned officer corresponding to the rank of sergeant, and after serving in the air force hospital of Vienna for a short time I went to the war college at Ager in 1942 and then in August of the same year I left for a motorized company in Russia. I remained there until the end of 1943.

Q. What duties did you have in Russia?

A. I headed the internal ward of a field hospital.

Q. Did you hold the position of a section doctor?

A. From point of discipline, no, I was kept on the list as assistant to the surgeon.



Q And where did you go from Russia?

A Subsequently I was transferred as an assistant to the internal department of the air force hospital at Brunswick, and from there in March of 1944 went to the war hospital at Taraviso, Italy.

Q So even in Brunswick you didn't become department medical officer?

A No.

Q And you didn't receive that title in spite of three years of service and although you were a university professor and already had been admitted for professorship?

A It was only in March 1944 I became an independent section medical officer for the first time.

Q In the indictment you are described as an consultant medical officer of the air force though?

A I was never the consultant to the air force. Admittedly at the beginning of 1944 I had been earmarked for that position in the Parachutist Army, but for reasons which Professor Dr. Sievers has described here a younger colleague of mine was preferred.

Q So you didn't participate in any meeting, particularly none of the meeting mentioned here in this trial, is that right?

A You mean the meetings, the congress of the assisting consultants?

Q Yes.

A You are right. I didn't participate in any one of these meetings.

Q Did you have any contact with your fellow defendants before this trial.

A I only knew Professor Handloser who during the years of 1938 and 1939 worked in Vienna where he was the military district medical officer, and I also know him listening to lectures of his occasionally, but I do not believe he knew me, because he probably impressed me more as a general than I impressed him as a civilian. Of course I know

Professor Schroeder, Chief medical officer, by name. He was my highest superior. The first time I saw him personally was when I was ordered to work on experiments and reported to the medical inspectorate. It was done by means of the common brief military report for duty. It was on that occasion I met Dr. Becker-Freyseng and later in October 1944, Dr. Schaefer. As the evidence has already shown I had a brief conference with Mr. Sievers in Dachau and I didn't know any other of my fellow defendants before.

Q. Well, I think I can conclude the chapter regarding your character and personality, and in order to save trouble to the interpreters a number of testimonies and certificates have not yet been submitted by me. Now, let's pass on to the question of the order, when did you receive the order to carry out seawater experiments?

THE PRESIDENT: Counsel, before proceeding with that matter the Tribunal will be in recess.

(Thereupon a short recess was taken.)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Counsel may proceed.

BY DR. STEINHAUER (Counsel for defendant Seiglboeck):

Q. Witness, we shall turn now to the second chapter, to the question of military orders. When did you receive the order to carry out sea water experiments?

A. Today I cannot give you the exact date when that order reached me. It must have been the middle or end of June, probably the end of June.

Q. At that time were you already told the purpose of this order?

A. No, the order came to my chief physician at Tarvisio, a teletype; this teletype told me to report immediately to the Medical Inspectorate in Berlin. There was no reason for this order in the teletype. I was sick at the time the telegram arrived. I thought at first that I would be called to get the position of a consulting internist, which had been promised me; however, since the rebuilding of my department in the Tarvisio hospital had just begun, I asked my chief physician to telephone to Berlin and if possible get permission for me to stay in the hospital in Tarvisio. Dr. Yaeger, my chief physician, then called Berlin. He was informed that I was not being transferred for the reasons I had thought but that I was to carry out scientific experiments for the commission from the Medical Inspectorate. I was to get precise details about this in Berlin. At any rate, I was to get under way immediately to get to Berlin and a few days later I went from Italy to Berlin and reported to the Medical Inspectorate, as I had been ordered, and there I was directed to see Dr. Becker-Freyseng.

Q. When you had not known theretofore?

A. When I had not known theretofore, neither personally nor by name.

Q. What did Dr. Becker-Freyseng tell you?

A. He told me briefly first of all what was afoot and then took me to Oberstarzt Dr. Herz from whom I received the formal order to take over the carrying out of these experiments.

Q. Did you accept this order without any opposition on your part immediately?

A. After I had been informed exactly what was going on there, I immediately asked permission to carry out the experiments in my department in Tarvisio. I wanted to carry them out on soldiers who would volunteer for them. I also said that I did not want to carry out experiments in a concentration camp and gave as my reasons for this, among other things, the fact that it seemed to me more practical to carry them out in an institute where the necessary laboratory facilities were available. Of course, I could not express very explicitly my personal opinions regarding concentration camps because in 1944 in Germany that was not something that one just did. I was told that the Medical Inspectorate had originally intended a hospital to be used for these experiments and I remember very exactly there was talk of Brunswick; I remember this for a personal reason. Not so long ago I had been working in Brunswick in the hospital and it would have pleased me greatly if in this way I should have had an opportunity to see my friends there again and consequently I much regretted that this plan was not carried out.

Q. For that reason was your proposal that the experiments be carried out in Tarvisio turned down?

A. The reason that Oberstarzt Dr. Marx gave me, that is the reason he expressed to me, was that the very aggravated situation on all fronts did not permit keeping soldiers in hospitals longer than was absolutely necessary for their convalescence. This was shortly after the beginning of the Anglo-American invasion. He pointed out this fact to me specifically and mentioned also the Fuehrer order about which I had heard already, that very strict measures were to be applied in judging who was to stay in hospitals. For instance, we had to release from the hospital persons sick with gastric disorders even before they were healed.



Court No. 1

We had people with gastric ulcers who were absolutely in need of hospital care. We had to take these people from the hospital and sent them to the so-called "stomach battalions." These were companies composed solely of persons with gastric ulcers who received a special diet but nevertheless did full active service.

For example, there was such a stomach company stationed near Tarvisio which in full active service combatting partisans and I remember very well that from this stomach company we frequently at the hospital received cases of gastric hemorrhage in the surgical department; wounded soldiers before they were completely healed were put into the so-called convalescent companies.

We had difficulties again and again when we had hepatitis cases who kept relapsing when we released them because the liver again relapsed.

That, in general, was the situation. We did not act according to purely medical or scientific principles but acted simply on orders that were dictated by necessity. That was the actual situation in 1944 at the time I was given this order and for this reason I regarded this reason given to me by Oberstarzt Mers as a justified one.

Q.- Now, witness, did you say something else to escape from this assignment?

A.- When I realized that the location of the experiments could not be changed and since I did not want to go to that chosen location, I asked Becker-Freysang to send me back to Tarvisio and to Commission my deputy in Tarvisio who was also an internist with the carrying out of those experiments. Becker-Freysang answered that it was too late now to change anything. Professor Eppinger had recommended me as a suitable expert. Becker-Freysang said that he had supposed this had been done with my permission. That, however, was not actually the case. Becker Freysang said that he himself was not pleased that a concentration camp had been chosen as the location for the experiments. However, he was

Court No. 1

convinced that this problem of sea distress had to be solved because the many reports that he had received in the last time made it imperative to solve these problems. He told me that I had been ordered to carry out the experiments. This was an order from higher up. It was just as binding on him as it was on me; and moreover, I had already been nominated to Mindler as the person who would conduct the experiments. Consequently, it would be impossible for me now to withdraw.

I then asked him whether I was to understand this as a strict military order and he answered "yes."

Now, in the year 1947 it is perhaps not quite so easy to understand that in the year 1944 it was absolutely necessary to regard a military order as binding, that one did so.

Q.- Then it was Professor Dr. Eppinger that proposed you?

A.- Yes, it was he.

Q.- Had you previously spoken about this matter with Eppinger?

A.- No. Regarding everything that happened before I arrived in Berlin I know nothing whatever. Eppinger, as he told me later, had entered this whole affair or had attended this conference with the intention of carrying out the experiments at his clinic and for that reason he wanted one of his assistants to make the experiments. Since it was a military assignment and since I, as the only one of his older assistants, was a member of the Luftwaffe, he proposed me as the person to make the experiment.

Q.- Did you, however, perhaps, later speak with Eppinger about this assignment?

A.- Between the time of my arrival in Berlin and the actual beginning of the experiments, I was once in Vienna and, of course, spoke with Eppinger regarding this question. I did nothing to conceal the fact that I was very unhappy to have received this assignment. My teacher told me that for the above mentioned reasons he had proposed me and, moreover, he said that he expected me to carry out these experiments at

Court No. 1

in a perfectly impeccable manner. Moreover, he said it was neither his responsibility nor had it been his intention that I should be assigned to Dachau. He had neither proposed that nor had he been asked his opinion in that matter and, as a matter of fact, Dr. Eppinger had absolutely nothing to do with the choice of Dachau as the location of the experiments of prisoners as the experimental subject.

Q.- What then had his intentions been?

A.- I have already said that Eppinger wanted to carry out the experiments at his clinic and had already agreed on that with Sirany and Berka before I went to Berlin.

DR. STEINHAUER: Mr. President, in this connection I should like to put in Document 12, page 26. This will be Exhibit No. 7. This is a letter from a then female doctor at the 1st Medical Clinic -- namely, Dr. Spiess. I shall read the second paragraph from this:

"As assistant of the 1st Medical University Clinic in Vienna, I had the opportunity of attending to a part of the report of Dr. Beiglboeck on his work at Dachau submitted to Prof. Dr. Eppinger. On the occasion of this conversation, Professor Dr. Beiglboeck generally condemned the principle of the performance of scientific experiments in concentration camps most strongly and at the same time reproached his chief, Prof. Dr. Eppinger, for selecting him for his work. Thereupon Prof. Dr. Eppinger asserted that he had not nominated him.

"Some months later, long after the termination of the experiments at Dachau, he frequently talked in my presence about the experiments at Dachau to German and foreign physicians and nurses. Upon my remark that these experiments surely were Wehrmacht experiments and therefore "secret," they were not intended for everyone's ears, Prof. Dr. Eppinger replied we could frankly speak about them as no case of death has occurred with the secret experiments and also that no experimental person had suffered any serious consequences through the experiments so that there was no reason to make a secret of it."

Court No. 1

BY MR. STERNBERG:

Q.- Witness, it seems to me I detect a slight contradiction here. The doctor who wrote this letter states that Eppinger had not nominated you but you just said that he did.

A.- I think there is a misunderstanding here. When I objected to receiving this assignment, Eppinger said to me literally, "It is not my fault that you have been assigned to Dachau." Now, apparently, Dr. Spiess' emphasis should fall on the word "you." However, the emphasis of what Dr. Eppinger said should lie on the word "Dachau."

Q.- Now, did you accept this assignment without making further efforts or did you make other efforts to escape from it?

A.- As a last attempt I mobilized my chief physician in Turvisio and asked him to request my return. I hoped that such a request through army channels would lead to my return to Turvisio. As Dr. Jaeger has testified here, he did so. However, he had no success.

Q.- Now, in the cross examination Mr. Hardy will certainly say to you:

"Sure, you didn't want to go to Dachau because you considered the experiments unnecessary at all." Is that the motive for your attitude.

A.- As I gradually became more and more experienced in the question of gas water experimentation, I came to think that the experiments were not unnecessary.



Dr. Becker-Freyseng, on the basis of various observations and experience on the part of the German air force and navy, informed me of the urgency of the sea water problem and pointed out the unfortunate fact to me that precisely in the problem of allaying thirst we had Schaeffer's preparation but the introduction of this preparation was apparently going to run into insurmountable difficulties. Therefore, if we didn't succeed in introducing this preparation, we had to know what sort of advice we would give a person who found himself in a state of sea emergency and under these circumstances I considered it my duty to work on these experiments, if I were ordered to do so; I not only considered it a military duty which I had to fulfill anyway but it was also the kind of a question which concerned me as a physician. At that time I had not been informed about the foregoing events of this affair, or at any rate was informed of it only very superficially and I knew nothing about the intrigues of the technical office as they have been described here. I knew nothing at that time and from my point of view I saw the matter as follows: Both Becker-Freyseng and particularly Professor Eppinger told me that we could assume that the Schaeffer method would not be introduced under any circumstances because the technical office declared it was impossible for reasons of lack of raw material. However, if the Schaeffer method could not be introduced, then the question still remained open: is it better for a person in sea distress to drink nothing at all or should he drink sea water and if he drinks sea water is it expedient to give him the Berka preparation? Regarding the question of the effects of sea water there had been up to that time no systematic scientific investigations carried out. In the meantime such investigations have been carried out and the results became known, but, of course, a problem that is solved in 1947 cannot be viewed as of the year 1944, in the same way that you might reproach Hippocrates with not being familiar with modern brain surgery, and it is quite understandable why from the medical point of view this problem had been greatly neglected, because in times of peace there

really was no problem of sea distress anymore. The great liners had solved their drinking water problems but the war, both naval and air, suddenly made this problem a very burning one, not only for the German Wehrmacht was it a pressing problem. That can be seen from the fact that at precisely the same time when we were concerning ourselves with this problem, i.e., at the time when I received the order to work on the problem, experiments in that direction were being carried out in America, and it is a great tragedy that we learned with this work too late. If it was intended to decide whether the consumption of sea water was good or bad and whether it is good or bad to add some dextrose preparation to it, then this problem had to be solved on the basis of human experiments. There was no other way to decide it.

Q. I read through the indictment yesterday and the question occurred to me, couldn't you have contented yourself with animal experiments alone?

A. I think I can state that very briefly because Professor Vollhardt has already explained the essential matters concerned here. There is no laboratory experimental animal whose sodium chloride metabolism and water metabolism can be compared with the human. Herbivorous animals react to salt much differently than carnivorous animals, or an animal like the horse which perspires a great deal contrary to the dog which does not sweat, and how specifically a cat reacts. So far as I know, there have been no very exhaustive experiments to investigate this matter but I should have been only too glad to buy experimental animals for this purpose in order to escape from that assignment. The essential reason was that the human being is the only living being which uses salt not only as food but also uses it as spice, and for this reason the human being is adapted to the consumption of quite different quantities of salt than are any animals. I later saw that American scientists when they completed their studies on sea water performing experiments animal/that they explicitly noted that with dogs they had to use not a three percent but a five percent salt solution in order to get approxi-

nately the same reaction as a human being would have.

Q Mr. President, in order to corroborate what the defendant has just said I wish to put in a document which will be Exhibit B. This is on page 71 of Document Book I and this is Document 20. This is an extract from the Vienna Medical Weekly of 1944/1946 regarding physiological effects of the drinking of undiluted sea water. I shall read only one sentence from this document, the fourth line - "It was necessary to give dogs a 5% sodium chloride solution instead of a 3.5% one, in order to establish an experimental situation analogous to that of man."

However, weren't these experiments carried out in this way in order to accord with scientific regulations?

A The problems of the water and salt metabolism, of course, bring up many problems. So far as sea water was concerned I knew of no writings on undiluted sea water. The first papers that I saw there, which I later realized to be the first in this field, were those of Dr. Schaefer which were given to us. From them I could see that Dr. Schaefer had done all the preliminary work on this subject but I could also see that Dr. Schaefer, that the knowledge that he had derived from his experiments were not relevant in any way for human beings because, for instance, Schaefer discovered that rabbits fed with barley oats can live for an enormously long length of time in spite that they are drinking sea water. He gave them daily doses of sea water which for human beings would have amounted to 1/2 to 2 meters. Nevertheless these rabbits lived for weeks and weeks. In other words these results cannot be transferred to human beings.

Q Did other scientists, especially those outside Germany, also report on animal experiments in this field?

A I think I have already said that I had found no reports at all on such experiments. The only experiment in sea water that was accessible to us in Germany in medical literature up to that time was an English experiment on human beings. The publications I came to know of later from England and America were also papers on experiments with



human beings. And that is understandable for the reasons I have just given.

Q Did you yourself have anything to do in deciding whether human being experiments were to be used and were you asked about your opinions on this matter?

A I have already said, and in the interrogation examinations of Professor Schroeder, Becker-Freysong, and Schaefer, it has become clear here, that I had nothing to do with the preparation for these experiments. Neither the decision to carry out experiments nor the way they were to be carried out were taken up in my presence. In the conference of 25 May in which the way the experiments were to be carried out was agreed upon, I was not present. After I arrived in Berlin I was given the plan for the experiments which had been worked out in every detail. I was instructed at that time to abide closely to this program and I was also told that this program had been worked out at a conference of leading specialists and that Eppinger and Heubner had been among those who worked it out.

Q In other words you yourself could affect no changes in this experimental program, could you?

A No, moreover in this conference of 25 May it was also decided that my experiments were to be checked on the spot later and I believe this shows most clearly my connection to the experimental program.

Q Then the main problem was - is the Berka preparation able to reduce the damage done to the human system by seawater?

A Yes. And from the whole situation at that time the Berka preparation had become the bone of contention. To be sure, as I have already indicated, that was not the only problem that had to be solved. Becker-Freysong told me that Dr. Sirany in Vienna had experimented on soldiers, but in these experiments he left it to the discretion of the experimental subjects to decide how much sea water they would consume. In this way he collected what I can only characterize as total confusion of results because one man drank 100 cc and the other 2 liters, and the

third drink as much as he wanted to. One man drank such and such amount one day and either more or less on the next. In short, this was the experimental program of a man who perhaps was a good dermatologist but certainly not a specialist in the field of metabolism. Sirney overlooked in his results some very elementary and primary thing, and unfortunately he made an even more unpardonable error, namely he did not find out how sea water works alone and connected everything he observed to the use of the Berka method. If he had not overlooked the most primary necessity of having a control group I know for certain no man would be indicted for having carried on sea water experiments because then the tragic error would not have occurred which in the last consequence set the whole avalanche in motion. Berka went to Eppinger with Sirney's experiments and told him that Sirney's experiments had proven that finally sea water is potable and secondly that it is much less injurious than otherwise. Berka, like many charlatans had unfortunately certain suggestive influence on his environment, and I believe that to some extent Eppinger fell under this influence. When I visited Vienna I discussed this whole problem with Professor Eppinger in all details and I asked him for what reasons he was recommending this preparation at all because chemically the Berka preparation cannot change sea water at all. That was pellucidly clear and Schaefer who was a chemist and fortunately approached this problem only from a chemical point of view was perfectly right, of course in repudiating the Berka method 100%.

In Eppinger's case the situation was somewhat different. Eppinger had heard constantly from both Sirany and Berka and it had been confirmed in Berlin that Schaefer's excellent process would, under no circumstances, be introduced. Eppinger, of course, was no ~~aw~~ who said to himself "if I have a chemical desalinating method on the basis of the Schaefer procedure then that would be worse than my putting a little sugar into the water." Eppinger always told me personally, of course, the Schaefer method is head and shoulders above this other method. There can be no discussion about that whatsoever. The only thing that could be discussed now was that if the Schaefer method was not introduced the question remained open, as the Berka preparation was not in a position to give at least slight advantages. And now the tragedy of which I spoke previously comes to light, because Sirany did not have any control group that drank only sea water, in other words didn't do what the Prosecutor was so outraged about before, namely as he did not give pure sea water, for this reason there was no basis for comparison. Now, Eppinger saw in Sirany's records of the experiments that one of the experimental subjects reached a concentration of salt in the urine as high as 3 per cent. Sea water has about 2.7% of salt. If the kidneys can accommodate this concentration then about 4 or 5 ccs of water must be added from the body daily. But experimental persons, however, must give much more water than that because it is absolutely necessary for him to secrete urine, and in order to combat thirst, and it is by drinking more that you do combat thirst. Now, literature has always asserted, and this can be seen from all textbooks, that the maximum salt concentration in the kidneys is 2 per cent. Eppinger relied on these statements, and consequently he can be pardoned for making the error of construing the higher concentration of salt in the urine as a consequence of the Bertha preparation. Since Berkatit contains vitamin C and citrate acid, and since it is known that vitamin C has an effect on the kidneys and there are many papers on that subject, so Eppinger thought that it was impossible that Berkatit was having



such an effect on the kidneys. It wasn't as if Eppinger was tormented by a vast curiosity, or rather it was not as if Eppinger was tormented by an enormous curiosity, but because of this curiosity wanted to push 45 concentration camp inmates into an experiment. It was that Eppinger was asked his opinion and he based his opinion on different presuppositions than that appear today, namely on the presupposition that the Schaefer method could not be introduced because of raw material shortages, and from the purely medical point of view he could not shoulder the responsibility not to take this possibility into consideration, this problem which had to come to his attention by Sirany's experiments. If he had found this suspicion confirmed, then this effect that he thought the Berka method had, would have prolonged the life of persons who had suffered shipwreck for a few days. This is the sort of thing that is characteristic for a clinician and not for a chemist. And if Sirany had not made this mistake in conducting his experiments then also the clinician would not have fallen victim to this error, but then that Eppinger was not entirely wrong was proved in my experiments, namely that the addition of vitamins does actually slightly increase the concentration of salt in the urine. That is perhaps quite interesting from the theoretical point of view, but the increase in concentration was so slight that it was unimportant from the practical point of view. This was the reason why Professor Eppinger and Dr. Schaefer were talking two different languages in this conference. One was speaking as a chemist and the other as a clinician.

Q Witness, do you on the basis of your previous opinion accustom yourself to this idea?

A I must say that I personally didn't have confidence in the Berka method, but of course as my teacher whose knowledge in the field of metabolism I have known and respected for 14 years admitted such a possibility then I had to be of the opinion that his possibility did exist.

Q Witness, did you have any opportunity of speaking yourself



with the so often mentioned engineer Berka?

A When I was in Vienna I did have an opportunity to make Berka's personal acquaintance. I saw him then for the first time and discussed his discoveries with him. Now, a document has been put in evidence here which shows that Berka was of the opinion that his dextrous solution passed the salt through the body. Just what he, as a technical chemist, imagined under this term "passed it through the body" I don't know, but he was convinced, and this is hard to understand in a chemist, that apparently under the influence of these fluid acids some complex compound took place between the sugar and the salt. I also saw his laboratory in Vienna and he had started a whole series of experiments in order to track his favorite idea down. He had also taken this idea about this compound to other chemists and had had them give him expert opinions, which he showed to Professor Eppinger. One of these expert opinions affirmed the possibility of the formation of this compound. The man who gave this opinion was a chemist of very considerable reputation. I think there was a case of mixed crystallization. I immediately asked Berka whether his compound was soluble in water and that of course he had to confirm, and then I said for us from the medical point of view that is the only important point. If you cannot make this salt insoluble then there can be no question of anything being passed through the body, but I was speaking to deaf ears. Berka was particularly obsessed with his idea, and I believe I can express the suspicion that even today he still considers his method better than Schoefer's. My effort to persuade him to withdraw his method from competition, so to speak, was unfortunately in vain. If he had done so, a great many of these experiments would have become unnecessary.

Q. Then you were not convinced that the experiments were unnecessary in themselves?

A. I can only deny this question. What struck me as the most important aspect of the experiments was the clarification of the problem, that had not been clarified experimentally; namely, whether thirst is better or sea water is better, and how big sea-water doses have to be. As I wish to emphasize again in 1944, even the great sea faring nations had no clear knowledge regarding the effect of drinking sea water. I personally, however, was of a different opinion, if one has developed preparations which can prevent soldiers from being injured, then it is both irresponsible and incomprehensible to concern oneself at all with the worse preparation. In my own opinion the technical office was under the obligation to remove all the difficulties in order to introduce the Schaefer method. If there was talk of sabotage when these efforts were being made, then I want to say that the real sabotage was committed against humanity and health by the attitude adopted by the technical office; if that attitude had not existed then we could have dispensed with at least half or at least two thirds of the experiments and could have started a short experimental series which would have been better from every point of view, also from the scientific point of view as the success of such experiments had to be doubted from the very beginning, because thirst experiments with so many persons cannot be so closely supervised, under whatever circumstances the experiments are conducted, so that the inevitable experimental mistakes occur. And it is decisive that such errors are to be expected in so many such experimentations. Because of the expectation of this sort of errors, the number of experimental persons was made larger from the beginning.

I recall very well that Becker-Freyssing told me at that time we want to use so many people because in the conference of the 25th of May, one of the scientists, I do not know who it was, drew my attention to the fact that a large number of experimental subjects would confuse the experiments by drinking fresh water.

Q. Now, Professor, when you received this assignment with -- the precise instructions how to carry out the experiments, did you start on them immediately or did you have to wait a while?

A. I could not begin immediately but I stayed, I think for three weeks, in Berlin.

Q. Now, what did you do in those three weeks, take walks?

A. I used this time to concern myself with the questions that would come up in judging such experiments. I did this by reading literature on the subject. I had already previously concerned myself very much with the problem of water and salt metabolism. I had to work to a great extent for this information, and since sea water consists of salt and water, those are the two fundamental things one must know. But, of course, I did not wish to reproach myself for having overlooked something that was already generally known, and consequently I went to the libraries in Berlin and read there a very great amount of German and foreign literature on the subject. I sat there and took notes on everything that was known on the subject at that time, and I do not believe that I overlooked anything that was accessible to us at that time.

Q. Witness, did you write words of your own, that concern themselves with this problem or at least this general problem, if not with the specific sea water problem?



A. In the clinic, in Eppinger's clinic, a great deal of attention had already been devoted for years to salt metabolism, and since it is practically impossible to separate salt metabolism from water metabolism because they are so closely interwoven, I of course, also concerned myself with the problem of water metabolism, and in several works of my own I treated this subject or collaborated on it though not precisely from the sea-water point of view.

Q. From the documents which I put in evidence which lists your scientific publications, will you perhaps just give the numbers of these works that refer to that, which deals with this general subject?

A. Work No. 16, which states the influence of insulin on the mineral metabolism; No. 18, on water metabolism and the internal secretion; No. 21, takes up the question of salt metabolism and three or four of my works concern themselves in great detail with the changes that take place in the mineral metabolism under the influence of vitamins.

Q. Did you find such literature on the effect of sea water?

A. In German literature, I found only such works concerning themselves with sea water from the aspect of a sea water drinking cure, namely, with the effect of diluted sea water. In Germany up until that time, the question of undiluted sea water had not been dealt with. The work of Fall, Altmont, and Gwendy, who were British, came to my knowledge also in the course of this war studied the introduction of sea water into the body through the rectum; taking their cure from an old rumor that applying the sea water in this way the body would absorb only the water, but not the salt. Later I read to my reassurance in English publications that this had not been a negligence on my part



but that at that time no work, in this direction had been done.

Q. In this connection, Mr. President, I should like to put in a few documents, one of them is an affidavit of a physician Dr. Orthner, document book I, page 92, document No. 23; this will be exhibit No. 9. I shall read only very brief passages from this document. On the second page, at the top i. e. page 93 and at the bottom of the page:

"In any case, I know very well that he used the two or three weeks he spent waiting in Berlin for zealously consulting the libraries in order to gather still more accurate knowledge regarding the pertinent questions. I recall this so well, because I was then detached to the forensic Institute in Berlin, and procured from my chief at that time the permission for him to use our library. But he also often consulted clinics and other institutes for the same purpose, though he, at that time still hoped that he could get away from that assignment."

Then I should like to read from the top of the same page:

"E. quite frankly told me his point of view, that he not only thought such experiments unsuitable in a concentration camp but particularly also had strong weighty doubts, though he had been assured that only volunteers would be used. But he, who on principle was against concentration camps nevertheless wanted to have nothing to do with them."

THE PRESIDENT: Have you finished reading from that document?

DR. STEINBAUER: Yes.

THE PRESIDENT: The court will now be in recess until 1:30. (Thereupon a recess was taken until 1330 hours.)

AFTERNOON SESSION

(The hearing reconvened at 1330 hours, 6 June 1947.)

THE MARSHAL: The Tribunal is again in session.

WILHELM REIGLBOECK - Resumed

DIRECT EXAMINATION (Continued)

BY DR. STEINBAUER (Counsel for the defendant Reiglboeck):

Q. Witness, last we discussed that in American literature very little was contained about making sea water potable --

Concerning this chapter, I should like to submit Document Number 21, Exhibit Number 10, pages 73 to 89. That is a scientific study by a Mr. Labell who is a member of the British Medical Research Council. He wrote a study concerning reaction after drinking small quantities of sea water.

A. First, I should not like to read anything from this document but I shall refer to it later. I should like to deal with another question. In this study it is very clearly expressed that up to the year 1944 in medical literature nothing was systematically known about the results, the reaction of sea water.

Q. Since you mentioned this, I should like to qualify that. It can be found on page 73. There it says, "During the last year work has been carried out in the laboratory, for the Medical Research Council's committee on the care of shipwrecked personnel (MRC War Memorandum No. 8), on the physiology of subjects receiving the same food and water as shipwrecked men in lifeboats."

On page 13 - in my document book on page 85 - Labell says - and unfortunately I cannot bring him here because he happens to be in Africa now, in Liberia - he says:

"No references have been found in the literature to the physiological effects of drinking sea water but the effect of rectal instillation has been examined in some detail. Experiments have been reported by Foy, Althann, and Kondi (1942) on this subject, and Bradish and his colleagues (1942) followed the effect of instillation of sea water not

only into the rectum but also up into the colon."

To elucidate this, I should like to say that rectum is the anus and colon is the wider part of the anus.

To return to our experiments, you described that immediately after being informed about the order you asked not to be sent to a concentration camp in order to carry out these experiments there. Why were you so much against it, carrying out these experiments there?

A. I had not so much an objection to carry out the experiments but I was against the fact that these experiments should be carried out in a concentration camp. If these experiments had become necessary, I wanted to carry them out in a hospital or in a clinic.

Q. Did you know about these conditions in concentration camps so that you were against them?

A. I did not know any more about concentration camps at that time than that they existed, that it was an institution where political and criminal prisoners were kept. As to what actually occurred behind that barbed wire enclosure, that I only read after the war in the newspapers and the real insight I gained only through this trial. You think it is ridiculous that I say that, and incredible, but although I myself worked at the time in a concentration camp it was also under these circumstances that I had no opportunity of any kind to look behind the scene. The objections I had at that time against the concentration camp was based upon a feeling of some sort which was caused primarily by the fact that it was known to me from the Austrian press before the Anschluss that strict rules and regulations apparently did not exist for that institution.

In the Austrian newspapers at that time I could frequently read that the treatment of inmates was bad. Occasionally there were reports about casualties that had occurred, and one said afterwards that these people had been shot while trying to escape. Of course, those were newspaper reports and nobody, not even in Austria, had an opportunity to make sure whether they were correct. Added to that was the fact that

gradually the news stopped in the Austrian press. The Austrian newspapers gradually took up a more defensive position in their propaganda and in 1938, after the Anschluss had been effected, all news about concentration camps ceased to be published and whatever had been reported in Austrian newspapers was described as an invention and malicious propaganda.



Then in 1941 I became a soldier. Most of the time I was at the front for a long time, a longer period in Russia; there of course, one did not hear anything at all about such matters apart from the fact that our duties as physicians consumed so much of our time, that beyond that we hardly had any opportunity to think about anything else.

Q. Mr. President, in connection with this fact, may I refer again to the affidavit by Dr. Orthner, document book I, page 94, on the bottom of the page. Dr. Orthner says:

"If I said that Beiglböck objected on principle to the selection of a concentration camp as site for the experiments, then it is to be attributed to the fact that he is an idealist throughout, and, on his part, would have rejected every forcible method and every arbitrary action. Especially characteristic of this seems to be the fact that he told me of examples, with which irresponsible 'generosity' the detention in the concentration camp was ordered. I recall that he particularly referred to the medical students who were allocated as prisoners to him for assistance."

Since I have just mentioned the word "prisoner" I should like to ask you, witness, was it your opinion that no experiments should be made on prisoners?

A. That is a question which is very hard to answer, and a question which was also discussed time and again by my teachers. Of course, from medical literature I know that such experiments on inmates were frequently made. I knew, of course, the world famous Plague experiments, the famous Loper experiments by Arning; and from dealing with vitamin research, I knew of experiments with Beri-beri and Pellagra; and I knew from dealing with liver Pathology, liver research, that in the year 1936, eleven criminals who

had been sentenced to death were used for experiments in order to test the reaction of a Liver poison.

In Vienna we were also somewhat opposed to experiments with prisoners. I remember in talking, that my teacher Kosowo, also violently rejected that idea. On the other hand, one has to admit, of course, that certain problems of medicine which are of utmost importance under certain circumstances require an experiment on human beings, which of course, entails a great risk.

I believe, therefore, that it is extremely difficult to obtain an attitude here which would be decisive, and since there are no regulations by law, it is probably true that the research man who, with the authorization granted him by the leadership of state, is given the possibility, to make such experiments, has to do that on his own responsibility, and to decide on his own how far this was compatible with his ethical attitude as a physician. I, on my part, was opposed to it in my inner most feeling. And the attempt to get away from these experiments was made by me, based on my innermost feelings against it, and I certainly suffered when I realized that was not possible for me to do. But, I received absolute assurance that the experiment exclusively would be made on volunteer subjects, and since, on the whole, these were experiments, which, if conducted correctly would not entail danger of life and that together with the assurance that I would get voluntary subjects, gave me the pre-requisite that I did not refuse to carry out an order, an order which I could only have refused in a manner which would have had most serious consequences for myself and my family.

Q. Let us deal further with the question of voluntary subjects. Was it that told you that these subjects were

all volunteers?

A. That I would get volunteers for these experiments, that I was told on the occasion of the first conference with Dr. Becker-Freyse. He assured me of that. In order to give me further assurance on that point, immediately after arriving at Dachau I asked whether those conditions would be kept. Dr. Bloembergen, at that time, before witnesses, assured me that voluntary subjects would be used for no experiments. When I reported to the adjutant of the camp commandant, I raised the question again and I had him assure me also once more that there would be voluntary subjects. When the experimental subjects arrived at Dachau a Sturmbannführer of the SS arrived together with them, who apparently had accompanied that transport. I asked him again if these people volunteered, he confirmed that again to me. He also stated that certain advantages had been promised them, and when this Sturmbannführer left I asked my experimental subjects whether it was true that they had volunteered, and they affirmed that. At that time I had no reason at all to doubt that this information was accurate. Superiors of my office of the SS, and the experimental subjects, themselves, confirmed it and I cannot see what else I should have done in order to make more certain as to that fact. It became quite obvious to me that now in the year 1947, a statement on my part, that one had voluntary subjects sounds entirely different than I had to understand it in 1944. I was never accustomed to be told by any officers of the armed forces of any branch of the armed forces, upon a question which I had put to him, anything which was not according to facts.



At any rate as far as I was concerned I had reason to be convinced, absolutely convinced, and I was convinced that I had voluntary subjects in front of me. Apart from that it did not seem incredible or improbable to me at all that somebody would volunteer for an experiment of the kind as I intended to carry out if on the other hand certain advantages were offered. At any rate it is quite clear to me that even soldiers of the armed forces would have volunteered in order to gain certain advantages. Beyond that, of course, I realized that one could not make a comparison here but if the soldiers volunteered for Dr. Sireny, they certainly did not do that because in the service of science they intended to make certain personal sacrifices. They did it because they obtained other advantages in exchange. And furthermore, they did it because a private first class, if he is asked by an oberst, "do you want to take part in an experiment for me", he certainly will answer "yes sir". That, of course, is to some extent a limited volunteer, and that this fact of a relatively limited manner of volunteering also applied to the prisoners I had no doubt. That precisely was the reason why I did not want to have any prisoners as experimental subjects.

Q. Witness, were you told, were you ordered to find out about that at Dachau?

A. I did not receive any specific order of that kind, that probably can be seen from the entire discussion with Dr. Becker-Freyson. I had a definite impression that he also was convinced that the experimental subjects had volunteered for the experiments. I made those inquiries in Dachau on my own because it seemed to me to be a matter of course and for reasons which are to be understood on the basis of the explanations I have given just before.

Q. Did you have influence at all in the selection of the place where the experiments were to take place?

A. No, in no manner at all. I have stated already that everything concerning these experiments, everything down to the last detail of



their execution, was stipulated before I was ever ordered to take part in them.

Q. Did you have influence in the selection of the experimental subjects?

A. No, I was told at the medical inspectorate that arrangements had been made with the SS and that the SS in accordance with these arrangements would supply the experimental subjects. I did not have to worry about that.

Q. Did you have the order to find out where the experimental subjects came from and what the specific circumstances and conditions were?

A. No, that also was neither a decision that I could have made, nor did the Luftwaffe.

Q. Did you know before that gypsies had been used?

A. The fact that gypsies were coming I only found out in Dachau by the Camp Commander.

Q. Who were these gypsies?

A. They were mostly half gypsy people who had gypsy blood but were not exactly what one would expect a gypsy to look like, a real Hungarian gypsy, say for instance. They were not pure gypsies. The color of the insignia they had to wear was black. The Sturmbannfuhrer who brought them, said that they were asocial elements and added that for various offenses they had previous criminal records. Thereupon I asked him for what kind of offenses, and he said their records had not been forwarded, but I could rely upon it, and on that occasion he also told me because I had gained the impression that possibly the fact of their descent was the cause for their arrest and their imprisonment, he told me that gypsies were no more kept in the concentration camps on account of their descent or belonging to that race that had been the case previously, and then they were wearing a brown sleeve insignia, and that only those were still interned who were put in the category of an asocial and allegedly came from such families. I should, therefore,

like to emphasize that I had no possibility to check on their records and I had relied upon what that man has told me. I had also received the assignment or rather the explanation of the instructions that I was not to interest myself into any other problems of the concentration camps that had nothing to do with the carrying out of the experiments and the fact that my own interests were in that direction, and the assignment made it much easier for me that I had to worry about nothing else than my experimental place. I, therefore, do not feel that I am responsible either for the selection of the place where the experiments were carried out nor for the selection of those persons who were used.

Q. Mr. President, in this connection I should like to refer to the document produced by the Prosecution, No. 179, from the so-called document book No. 5, where SS Gruppenfuehrer Neber states specifically about the experimental subjects, that racial gypsies, which is very important for us, had to be healthy. These two terms I should like to derive from that document -- racial and healthy; that the racials actually had to wear a black triangle and not a brown one. With the permission of the Prosecutor, I should like to show to the Court from the Kagen Book, -- I could not have photostats made, because of course these colors would not come out, -- but if the Court desires to look at it it can be seen that there is a difference between the brown triangle for gypsies and the black triangle for an racial. Unfortunately, I have only one copy. Therefore, I cannot submit it in evidence, but only show it for illustration purposes.

THE PRESIDENT: In this instance if defense counsel would prepare a paper containing these triangles and simply describe the colors, write in the colors, the first first, red with F and red with S and next the Jewish sign, a yellow triangle with red triangle reversed over it, just describe them in color.

MR. HARDY: May I ask defense counsel what his purpose is in introducing these various triangles. It seems to me they were elaborately

described by the testimony of Kogan when he was here on the witness stand.

THE PRESIDENT: Counsel explained that he desired to call the attention of the Tribunal to the difference between the brown and black and the Tribunal observed the difference in color.

DR. STEINBAUER: May I elucidate briefly upon the objection made by the Prosecutor. My client is charged with having committed crimes against humanity. Control Council Law No. 10 unfortunately does not contain a definition of crimes against humanity. It seems there is also little domestic and foreign, particularly American, literature concerning the term "crimes against humanity" or that can be found, but it has to be persecution against people for political or racial reasons. Therefore, I want to say that we are not dealing with racial persecution, but these are people who for other reasons have been in the concentration camps, and therefore would have the insignia of those persecuted for reasons of their race, but not of those who are persecuted because they were considered asocial. I will repeat that later. I just want to submit it to the Court now to support what I have said.

THE PRESIDENT: Would counsel explain to the Tribunal your understanding of the word "asocial." Proceed, counsel. ---

DR. STEINBAUER: "Asocial" is a term, the concept of which is very well known even in the United States, particularly in the United States and that agrees completely with our concept as far as I know it from European literature. The method applied in the Third Reich, of course, went much further in applying that term "asocial" than we used to do it. I want to put the same question to my client, since he can answer it from the medical point of view, but since the Court asked me about it, I want to state frankly and openly that in the Third Reich, of course, that term was applied in the much wider sense than we know it from the American and French law. Incidentally I have here the Austrian book about concentration camps which I really originally



intended to submit but I did not want to drag the name of Christ into these proceedings. The book was written by a Catholic Priest who was here in the concentration camp Buchenwald and today he is a lawyer at Salzburg. About the Asocials at Buchenwald these Asocials who were my subject persons he says, the rest of them were mixed from the harmless pauper up to the dangerous vagrant. They wore the black triangle of an Asocial. The numerous Jews were marked by the yellow David star with differences made between political and Asocial inmates. That can also be seen in fact from the color scheme of Kogan's book where he also had added the Star of David to the Jewish Asocial insignia.

With the permission of the Court I should like to ask my defendant, now would you like to answer the question from your point of view.

THE PRESIDENT: Before inquiring of the witness as to what his idea is of the meaning of the word "Asocial" the Tribunal would be very glad if you would explain your legalistic idea of the word "Asocial".

DR. STEINBAUER: We designated as Asocial, the person who consciously commits acts against human society and by these acts is Asocial, an enemy to society, that is the concept we have. I believe in English it can be expressed by the terms, a-social is an enemy of society.

THE PRESIDENT: You can proceed with the examination.

JUDGE SEHRING: Under your view of the matter, is it your view that simply one isolated act of criminality might tend to bring a man into the category of Asocial or do you understand by that classification that type of individual or class of individuals who constantly and persistently are guilty of anti-social conduct?



DR. STEINBAUER: Your Honor, if I may be permitted to tell you my opinion without that my colleague on the other side Mr. Hardy will use it against me, I wish to say that I personally am of the opinion that one offense never makes any person asocial, one violation of the law, but that particularly in the case of gypsies we are able to make the observation very frequently, that we are confronted there with real asocials; that is with people who resent with all force to be included in the normal process of work.

In studying the problem of the gypsies I came upon a book which refers to that quality that asocial quality and I am also quoting from that book in my document book. It explains to what extent the gypsies themselves have contributed to form, that concept of the gypsy plague. It is a book published by the Bavarian Government in 1905 and a similar book existed in Vienna. It is a hand book for the use of the police force in both countries in order to establish the citizenship, nationality, and family origin of the gypsies. Later I shall refer to that question again. It is important because Beiglboeck is not only charged with crimes against humanity, but also simultaneously for the same acts he is charged with war crimes and war crimes, in my opinion, can only be committed against Allied nationals. From that book, which I quoted in my document book, I should like to prove that it was just a asocial feature of the gypsies that at all times they deny their nationality, they deny their descent and just wander around.

I am submitting this as my opinion, however, not as the opinion of Beiglboeck, who might not have the same, in order to avoid any undue conclusion on the part of Mr. Hardy. I repeat, however, that the method of concentration

camp administrations to consider people who were late for two days or three days, to consider these asocials, to denounce them and to send them into concentration camps that I consider a great injustice.

Do you have that passage in the book?

Mr. President, for that purpose I refer to Document Book 2, page 105, document 28, which I should like to submit to the court as Exhibit 11. The original, which belongs to the University of Erlangen, and which I have to return, I have brought here. The copy is certified by me and is an accurate copy of the original of this document. I should like to point out that I have copied page 5 which indicates where the Gypsies come from, secondly, their asocial activities, which have been termed the "Fiasco of the Gypsies" and that which seems to me the most important and which I intend to read namely on page 2 the first and second paragraphs:

"The greatest difficulty arises in securing a census of Gypsies. The majority of them make every effort to obscure their identity through false statements or through a pretence of ignorance....."

"The number of false census statements and official certificates on the official register of births and deaths, made by the Gypsies, is very extensive."

MR. HARBO: May I inquire of Counsel by introducing this document and by his statement he intends to show the Tribunal that the word "asocial" in this connection means merely that a person may be asocial if he is a Gypsy?

DR. STEINHAUER: That would be absolutely wrong to be of that opinion. I only say persons who were supplied for the experiments had not been brought to the concentration camps for racial reasons, but for reasons of being considered

asocial, because as the witness Dorn said yesterday and this morning since 1942 there were no Gypsies persecuted on racial grounds for the simple reason that German laws as I shall describe in great detail in my trial brief, the gypsies are mentioned only twice in the law for the protection of the German race. In 1942 Hitler who was very systematically inclined was made to believe that the gypsies were really the original type of the Indo-Germans, that they were descendants of the original Indo-Germans and are the pure Indo-Germans in Europe and they were therefore no longer sent to concentration camps, for racial reasons. Is that sufficient, Mr. Prosecutor?

MR. HARDY: On that basis, I must object to the document as being absolutely immaterial to this case.

THE PRESIDENT: The objection is overruled, the document will be admitted.

JUDGE SEERING: Dr. Steinbauer, I understand also that generally there would be included within your concept of asocials; vagabonds, idlers, drifters, wanderers, and loafers who wander about the country side with no apparent home, respectable vocation or visible sources of livelihood; is that the general concept?

DR. STEINBAUER: Well, that would mean a too narrow interpretation. Always, especially today, when there are millions of human beings who have lost their homes and have to wander around, that is not sufficient for vagrancy. We in Austria prosecute only those who are anti-social, the pimp for instance. He has his house, lives well and is still asocial.

THE PRESIDENT: Counsel may proceed.

Court 1  
June 6-A-16-4-ED-Meehan-Uberall.

BY DR. STEINBAUER:

Q. Witness, I should like to ask you what you, as a physician, mean by or would understand by the term "asocial"?



A. As far as I have noticed as a layman in legal matters, there is no absolute legal definition for the term of an "asocial element", and if this was done around the conference table then, of course, we who are scientists cannot be blamed if we have even less definite interpretations or concepts of that term.

In our books on psychiatry where we discuss such matters the chapter on the question of "asocial" and "anti-social" elements is one of those most difficult to deal with. Speaking from the medical point of view, the term "asocial" would cover a person who in most cases has an inborn, sometimes hereditary defect of his ethical instincts; that is, a type who not by reasoning but on the basis of instinct cannot abide by prevailing rules and laws of society.

Furthermore, these people, of course, do not like to work, also one of the requirements of human society, and from these two roots for the individual there derives a vicious cycle. The more criminal he becomes, in the widest meaning of the word, the more he comes in conflict with human society, so society, of course, tries to counteract that. He considers this to be an injustice because he thinks that the demands of society are unjust and inapplicable. Therefore, he considers himself persecuted although innocent and continues to commit further violations against laws and regulations and that brings about the term of the "asocial" and "anti-social" as a sociologic term rather than a medical one. The physician is only interested in that certain inner defect, the lack of a natural, healthy sense of ethics and the fact that in many cases this is hereditary; and as birds of a feather flock together and as just the fact of vagrancy - that is the resentment against settling down, to the same extent as resentment against every type of compulsion - belongs into that picture, it happens frequently that two asocials get married. Even more frequently they didn't get married but they have children together and that brings it about that asocial families, entire asocial families, come into existence and on these families studies have been made, especially in the United States, where as far as I know these

studies have become very famous, and in these families one can find the entire scale of examples which we considered covered by the term "asocial". These families distinguish themselves in some cases only by hating to work. Other members of the family are habitual thieves. A third category again may be vagrants. The fourth type may be real criminals all the way to the habitual criminal. Among the female members of these families prostitution is extremely widespread.

All that apparently comes from some psychological aberration which seems to be the clue to the reason why these inclinations show to a different extent in various families. Generally, resentment of every kind of authority is apparent. There are many among them who may have other defects of the intellect but also many who, apart from an ethical defect, have a greater or high degree of intelligence.

As far as I know - and I only know it from occasional reading of medical studies - in Germany especially the question of heredity of such instincts was greatly emphasized, purely from the medical point of view, but how the legal form was found that, of course, I could not say.

Q. Witness, now we can go on from the subject and I ask you after you received that order to carry out sea water experiments you went to Dachau?

A. Yes. When these experiments were supposed to start, I was ordered to go to Dachau and install the laboratory there for the experiments. Originally I had been promised that that would be necessary only to a very small extent because at Dachau there was an excellent and very extensive laboratory available. In fact, I did not find anything there which I could have used for that purpose and piece by piece, laboriously, I had to carry everything together. That was particularly difficult at that time because Munich, where it might have been possible to borrow equipment, was just at that time the subject of heavy air raids and from that smoking heap of rubble one could not get anything.

Q. Witness, what order did you get for the purpose of carrying out the experiments?

A. The order said that these experiments were to be carried out with the instructions that four different groups were to be included in the experiment: one group who were supposed to be starved and suffer from thirst, another group who received only sea water, and another group who were supposed to drink sea water together with the Berke preparation - that is, were given five hundred thousand cubic centimeters each because in the case of all of these groups one would have to count on a loss of water and all of them would be subjected to conditions of nourishment which were unusual. For the purpose of being able to decide how much water is lost, a group would have to be included also in the experiments who received a normal amount of liquid but who received the same solid food as the other groups, and, in regard to this group which was originally supposed to get ordinary drinking water, they later received the Schaefer water in order by that means to assure oneself once again that even in the practical use of this water no changes of any kind became apparent.

Furthermore, as I have already stated, I was instructed exactly what observations were to be made during these experiments and this was a rather extensive program which gave us a great deal of work for that period of time. Very extensive blood analyses were undertaken, not in regard to the amount of the blood but to determine the different constituents of the blood and very exact urinalyses were required so that we could make sure, to a very large extent, what effect the change of the water contents in the body would bring about. That is what I was told. I did not, however, the discussions of the 19th and 20th which have played such an important role here but I knew only the conference of the 25th and only to the extent to which I was concerned with it; namely, first, the unfortunate choice to confirm me as being in charge of the experiments and, secondly, the regulations which were adopted there for the execution of the experiments.

The purpose of the experiments was as follows: first, I was shown

Court No. 1  
6 Jun 47-A-17-4-3E4-Prineau (Wartenberg)

experiments carried on so far by Schaefer and Sirany and I also was given an opportunity to study the records of their experiments. It was pointed out to me expressly that Sirany's experiments were inadequate for the reasons which I have already mentioned in part and that they were of the opinion that they were in no way sufficient to prove the practical suitability of the Herke method. Above all this was so for the reason that Sirany only carried on the experiment for four days and the Luftwaffe wanted to have a method which could be used and would be found valuable, especially if sea distress lasted for a longer period.



For that reason only such a method could be introduced, could be considered for introduction. At that time, 12 days were requested as the minimum requirement to prove the value of such a method for the reason that at that time several cases of sea distress became known who were saved after 12 days. So that I shall not be misunderstood, the requirement was that the method to be introduced could be taken for 12 consecutive days without harming, damaging, the health of the person. The conditions of the experiment were, as far as possible, to be made the same as those existing in sea distress, but only in respect to the amount of water and food; on the other hand, everything else that is at a disadvantage during sea distress, that is the influence of the climate, cold, heat, changes in the weather, etc., the wind which lets the salt of sea water, affect the person by forming a crust on the skin; the inability to sleep in the rescue boat, all these conditions of course were to prevail during the experiments. I have discussed these questions with Becker-Freyse, these questions which were of importance for my experiments. We also discussed the theoretical basis. He called to my attention specifically the statement of Schaefer which were given in some kind of a report, which was available in a typewritten copy, and also he pointed out to me that Schaefer had made calculations about a certain amount of sea water that could be tolerated for 12 days, but, of course, not without causing changes in the water balance. The question was not whether smaller amount of sea water could be given for a longer period of time, and whether with about 500 cubic centimeters of sea water, one could live for a certain period of time. Our aviators, at that time, were provided with a very small amount of water supply which lasted for only two days. If now, one of them was out for eight or ten days more, drinking small amounts of sea water against his thirst, he had then, of course, the advantage not to endanger his health seriously, and he could survive at sea. The assumption, of course, was also at that time that the Schaefer Preparations would not be introduced.

Well, he told me that this maximum limit of 12 days was a desirable aim in some form or another, but it should not be forced and in the different experimental groups I should try to approach that aim to the extent as I could take the responsibility from the medical point of view examining the persons. We then discussed the question where the danger limit to the loss of water begins, where normally this borderline is, and where one could normally assume that life was endangered. The period between the dangerous border and the border endangering life compared to the former loss of water only the following conditions change: originally, only the free water is eliminated, while during the period between ten or twelve per cent and about 22 per cent, the water from the body cells too, is eliminated. In other words, the intracellular water supply is affected. At the very beginning of the discussion I emphasized that under no conditions would I carry out experiments which would mean damage to the health or would endanger the life of a subject; that I would refuse to do something like that. And, Becker-Freytag replied immediately that that was also in accordance with his views, and, that, of course, death should have to be avoided in any case, and that the limit should be set where no damage to the health of the subject had to be feared. But, anyhow, the experiments would have to be carried on so far that thirst reactions were noticeable and without any doubt would make it possible to make a comparison between the two groups. As far as I could take the responsibility for that from the medical point of view, under the given circumstances, that is by preventing any damage to the health of subjects, I was supposed to proceed that far. I also discussed with him, discussed with him, that, of course, we would have been quite clearly in our minds that thirst experiment is not a pleasure, and that it asks very much from the will power of experimental subjects if they are required to thirst for several days. And from that point of view, of course, one would have to regard these experiments as connected with some unpleasantness for the experimental subjects, and as a consequence the experimental subject

had to be volunteers. And, experiments on volunteers who made themselves available for these thirst experiments would, of course, make it possible to put these high requirements on them. In order to protect the experimental subjects in other ways, they had to stay in bed. There were two other reasons for this: First, the aviator who is in sea distress is also forced to lie down in the rescue boat; and second, every movement that is by walking around, increases the elimination of water by the lungs. So, that a lack of movement, the quiet lying in bed retains the water of the body somewhat more. In other words, the external conditions were kept in such a way that is, with the exception of hunger and thirst, as far as possible no unpleasantness and no hunger would result for the experimental subjects. The aim of the experiment was to achieve absolute clarity about the following question: First, whether thirsting or the drinking of sea water would be better; whether the abstinence from water or the drinking of sea water would be better, drinking of a small amount of sea water; secondly, whether the Barks preparation contrary to expectations would bring about an improvement of the tolerability of sea water; thirdly, whether the Schaefer preparation could be tolerated for 12 days without any damage to the body. And, this group of experiments was supposed to be carried out for 12 consecutive days if the obvious conclusions resulted, i.e., that the preparation proved to be harmless. On the occasion the metabolism of those suffering from thirst and those who drank sea water was to be studied for one night obtain clues whether any changes take place within the body, and one would perhaps obtain hints for the treatment of persons rescued from sea distress. As I have said, this program of experiments was laid down in the meeting of 25 May, I received the respective record and asked whether any one of the Navy, or of the Airforce, Luftwaffe, had found any papers on research work about sea water which Becker-Freyseng denied. In medical literature there existed nothing but very nebulous reports and opinions, to the effect, in general, that sea water is dangerous. Nobody concerned himself with



the question of why it was dangerous in detail, and it was strange that nobody ever asked whether this was not conditioned by the amount. I also have to add that in all the reports about cases of sea distress, it becomes apparent again and again that usually one only starts to drink sea water only after one has suffered thirst already for several days. In other words one expects an organism to tolerate sea water, an organism which is under quite different conditions than a healthy organism. Now it is as follows: That a person who has been suffering from thirst already for a few days has already reduced his elimination of water to a minimum; if such a person is now expected to drink about one or two liters of sea water per day, that is a quart of sea water per day, then this dehydrated body is forced to eliminate a multiplicity of the amount of water which he would have lost if he had continued to suffer from thirst.



Since a person who is suffering from thirst and sea distress usually drinks a large amount of water, among the seafarers the danger of the sea water is known as a dogma and all reports about sea distress which I have found so far, with very small exceptions, indicate that the taking of sea water occurs in an uncontrolled manner and this practical experience in particular was apparently the reason why in the English and American papers on the subject studies were made predominantly on what the effect of sea water is on a body which has been dehydrated already, while we asked ourselves how developments were when from the very beginning one drinks sea water. Speaking from a medical point of view, there is a difference in principle.

Q. Witness, who had to decide when the experiments were to be interrupted?

A. This decision was of course up to my medical expert judgment and I can assure you here that I discontinued the experiments in such a way that the critical limit was not exceeded in any experiment. As far as the subjective elements were considered, I also took them into consideration, but that could take place according to the nature of the experiment only to a certain extent, because the thirst was in these experiments a "Conditio sine qua non," condition without which it could not be carried on. Such an experiment could not have been carried out without having the experimental subject suffer from thirst. I certainly can understand how it feels to suffer from thirst and I had made sure what the sensations which are caused by this thirst.

Q. With reference to this experiment on yourself, I have already mentioned the animal experiments and I shall refer to them later; but now I want to ask you, witness,

did you carry out the experiments yourself alone or did you have medical or other collaborators?

A. It would of course have been absolutely impossible for me to carry out these experiments, which were propounded here, all alone; that would have been impossible. Therefore, three physicians of the Luftwaffe, medical chemists, who were otherwise working in large University institutes and laboratories, helped me carry out the laboratory work. On this occasion, I also want to state that these three physicians carried on the laboratory work and they are only responsible for what they found in the urine and in the blood. In other words, they made analyses of the body fluids I sent to them, but they are not responsible for the experiments in themselves nor for the manner of the execution of the experiments. For that I alone am responsible.

Q. In addition to the medical personnel, did you have any other collaborators?

A. I also had three medical officers of the Luftwaffe, who in part were also working in the laboratory, in addition I received two male nurses who were prisoners to help me and three French medical students, who also helped me to carry out the examination and in the care of the experimental subjects. Furthermore, I consulted specialists from Dachau. They were exclusively prisoner physicians who helped me with the examinations in the specialist's field, and in the reports, which I still have in my possession. Although I made the greatest effort, I did not succeed in procuring one of the French assistants so that here he could testify as a witness about the execution of the experiments.

Please ask me another question.

Q. How did the experiments begin after the experimental  
its had arrived?

A. When the experimental subjects had been handed over  
to me, first I explained to them very extensively what was  
at stake in these experiments and what they were about. For  
me that was natural from the medical point of view. Never  
in my life did I require a patient or an experimental subject  
to do something that they did not know anything about, but  
if I am not believed then I must say that for practical  
reasons alone it was absolutely necessary to tell the  
experimental subjects what courses matters would take, because  
an experiment of such a nature cannot be undertaken at all  
without having the experimental subjects know what they  
have to do. Such an experiment depends exclusively upon  
the experimental subject and I did not keep it from the  
experimental subjects in any way, that the thirst was very  
unpleasant and that what we were requiring of them would  
be very difficult for them. I still remember quite exactly  
that one of them thereupon told me, "Oh, well, a few days  
of hunger and thirst." I then told him he should not under-  
estimate this at all, how thirst will feel. I then requested  
them to support me in this experiment and told them also,  
that with these unpleasant things they would now suffer  
they might be able to contribute to saving or prolonging  
the lives of a large number of people later on, and I told  
the group who were supposed to suffer hunger and thirst in  
particular and the group who were supposed to drink 1,000  
cc of sea water that they were by far in the worst position.  
For that reason, I selected the strongest ones for these  
two groups, and contrary to the original orders I had  
received I kept specifically these groups down to the  
smallest number of people. That the group that received



1,000 cc of sea water later became larger is not due to the fact that I enjoyed inflicting this torture on another large number of experimental subjects again, but it is by the fact that of this group in particular during all the first experimental series none of them, not one of them, carried out the experiments without in addition to sea water drinking a large amount of fresh water. I also told the experimental subjects I would always be near them and I also kept that promise. Furthermore, I promised them they could have absolute confidence in me that nothing would happen to them, and thirdly I promised them that with the influence I had, due to the nature of things, I would use all of it to see to it that the promised advantages were given to them. I then asked them whether they would agree to submit to the experiments under those conditions and they said yes, they would.

Q. You mentioned before that before the beginning of the experiment you carried out an experiment on yourself; would you please describe that to us briefly?

A. The experiment on myself did not consist in my tasting from the water when it was being administered to the experimental subject or when it was given to them in order to make fun of them, but this experiment on myself was carried out by myself before the beginning of the other experiments and that was at the time when the experimental subjects were not even there yet. I did that for the reason that I wanted to find out first whether Berka's opinion that his preparation quenched thirst was correct, and secondly I wanted to suffer thirst myself, because the director of such experiments would be at a disadvantage if he had no idea what the experimental subjects were feeling when they were undergoing his requirements. Perhaps for an experiment, of another nature, under certain conditions, that might be



Court 1  
June 6-A-19-5-ED-Meehan-Wartenberg.

possible. For an experiment, however, in which the subjective symptoms of the experimental subjects are predominantly important it is necessary that the person carrying out experiments know how it feels. For that reason, I carried out the experiment on myself to orient myself and to inform myself. I am not very proud of this at all and I am ready at any time to repeat it. But actually this was an experiment on my own person, which was executed in the regular fashion and I believe I know how thirst feels.

Q. Did you carry out this experiment on yourself without any injury to your health?

A. I carried on the experiment for four days and nights, the experiments with seawater. I drank five hundred cubic centimeters a day. Of course, I was thirsty; in fact, I was very thirsty; especially on the third day my thirst was extraordinarily great. I also observed that from the fourth day on I got somewhat drowsy, that my sleep was disturbed by the thirst, that from the moment when the muscles began to lose their water there was a certain lassitude in the muscles and even a weakness of the muscles, a certain heaviness in my limbs, and a great need for rest. I then discontinued the experiment by beginning to drink water and, even though I had lost more than four and a half kilograms -- that is more than nine pounds -- after two days I was able to make a trip to Vienna from Munich without any complaints.

Q. Witness, after the experiment you carried out on yourself, later on did you occasionally also still drink seawater?

A. Well, not only I myself but also the medical students, the Frenchmen, for instance; and also my assistants occasionally tasted some of the Berke water and, as a rule before the water was handed out to the experimental subjects I drank some of it. I did that especially so that the experimental subjects would not think that in this Berke preparation some kind of a magic was hidden -- God knows what kind of a magic -- and that it could disagree with them. That was the reason I drank in front of them, not in order to make fun of them.

Q. Well, let us return now to the experimental subjects. You received them. You told them what it was all about, and what did you do yourself?

A. Of course, when the experimental subjects arrived, I undertook a very detailed medical examination of each of them, all of them. Originally I had altogether sixty. Of those I immediately eliminated those whose condition of nourishment seemed unsuitable to me. The rest

I kept and gave an internal and X-ray examination. On this occasion, in two or three, I found an infection of the lung. These cases, of course, I turned over to the hospital and I also saw to it that they were received there. Naturally, not a single person was included in the experiment who was not absolutely healthy. Aside from the fact that two or three had some skin disease on the legs, which was quite superficial and healed quite soon.

During the period before these experiments, during the preparatory period, one of the experimental persons fell ill with an acute infection. He got a fever and apparently had bronchial pneumonia. This prisoner -- that is, this experimental subject -- when he began to run a temperature, I also turned over to the hospital for treatment. I am speaking of the experimental subject who in my record of the experiments has the record number 9, and that is the group that was originally intended to receive Schaefer water. I also want to emphasize again that this happened before the actual experiment began -- that is, at the time when the experimental subjects were receiving the food that amounted to about 4,000 calories per day. Thus it was certainly not a consequence of my experiments. But from this one single transfer arose the rumors of the transfer of those who were already ill and of those who were allowed to die in other departments.

Moreover, this man had a brother, and I knew that he frequently visited this brother -- I know that he did not die, but kept on living, and, as I said, often visited his brother. Nor did I transfer anyone later on because I might have considered it necessary due to my experiments to camouflage the dying of the experimental subjects. Besides, I would not have dared to compete with the physicians of the camp hospital.

What happened with the rest of the experimental subjects? How did they enter into the experiment?

A First, I received two substitutes for those who as I told you were already eliminated after the first examination, that is, after the x-ray. These came from the Dachau camp itself, while the other experimental subjects, the gypsies, came from the Buchenwald camp. These two substitutes from Dachau were German gypsies and one of them had escaped from the camp once. Later he was again taken into custody and again brought to the camp. He had a so-called escape insignia. That was the first time I found out that this insignia existed and this escape insignia meant that the prisoner was more strictly guarded. In order to remove that escape insignia the gypsy and a friend of his had volunteered for the experiments, they and a few other prisoners. The prisoner nurse who was at my office at the time and whom I told that I needed two substitutes now, looked for two people on his own initiative and brought these two prisoners to me; and more than anybody he requested that I include these two in particular in the experiment in order to give them, or at least one of them, the opportunity to remove that escape insignia. The witness Viehweg testified here that the male nurse himself was half gypsy, that is the nurse Max, and for that reason he apparently helped those two gypsies. I thus included these two gypsies in the experiment, after the camp officer had given the approval for it, and I know of those two that they were not under any pressure of any kind on my part or on the part of the camp administration but they did this in order to achieve an advantage for themselves. After the conclusion of the experiments I also achieved that the escape insignia was removed.

How was the room in which the experiments were carried out?

A The room for the experiments was a large room in the principal hospital where the experimental subjects were quite comfortable and for the most part were in individual beds. These beds were kept neatly and had new and clean linen on them. I was given this large room for



the experiments only after I had intervened because originally I had been assigned a smaller room in Dr. Ekedner's station, of which there is mention in Exhibit 137, the latter by Dr. Sievers. I refused to take that room because it was too small for the lodging of all the experimental persons, and then I was assigned this larger ward in the prison hospital, and I thought that was part of the hospital. Only from the testimony of the witness Viehweg did I find out this was part of Schillings' experimental station.

L. Mr. President, I believe that we can continue on Monday.

DR. SCHILL: For the defendant Hoven. Mr. President, I ask you that the defendant Hoven be excused from the session on Monday in order to prepare his defense.

THE PRESIDENT: The defendant Hoven's counsel having requested that the defendant Hoven be excused from attendance before the Tribunal next Monday in order that he may prepare his defense, the request is granted and the defendant Hoven will be excused from attendance before the Tribunal next Monday.

DR. SCHILL: Thank you very much.

THE PRESIDENT: The Tribunal will now be in recess until nine-thirty o'clock Monday morning.

THE CLERK: The Tribunal will be in recess until nine-thirty o'clock Monday morning.

1947

9 Jun-47-MS-1-1-Primeau (Int. Wartenberg)  
Court No. 1.

Official Transcript of the American Military  
Tribunal in the matter of the United States  
of America against Karl Brandt, et al,  
defendants, sitting at Nurnberg, Germany, on  
9 June 1947, 0930, Justice Beals presiding.

THE MARSHAL: Persons in the courtroom will please find  
their seats.

The Honorable, the Judges of Military Tribunal I. Military  
Tribunal I is now in session. God save the United States of America  
and this honorable Tribunal. There will be order in the court.

THE PRESIDENT: Mr. Marshal, have you ascertained if the de-  
fendants are all present in the court?

THE MARSHAL: May it please your Honor, all defendants are  
present in court.

THE PRESIDENT: The Secretary General will note for the re-  
cord the presence of all the defendants in court. Defendant Beigel-  
boeck, the witness, is reminded that he is still under oath.

Counsel may proceed.

THE MARSHAL: Your Honor, defendant Hoven is absent this mor-  
ning having been excused by the Tribunal.

THE PRESIDENT: The Secretary General will note for the re-  
cord the absence of defendant Hoven from the courtroom having been ex-  
cused by the Tribunal in order that he may consult with his counsel.

Counsel may proceed.

WILHELM BEIGLBOECK - Resumed

DIRECT EXAMINATION (Continued)

BY DR. STEINHAUER (Attorney for defendant, Professor Dr. Beiglboeck):  
Q. Witness, yesterday we stopped with the description of the  
rooms where the experiments were carried out and now I am asking you  
where was the court yard about which witness Vichweg was talking.

A. The court yard about which the witness Vichweg was speak-  
ing was immediately connected with the barrack in which there was the  
experimental room. I have made a sketch from which the situation can  
be seen and this sketch is in my document book No. 2, document No. 31.

DR. STEINBAUER: Mr. President, in that connection I submit document No. 31 from document book No. 1, an affidavit of Walter Mission of 24 March 1947. Attached to this affidavit which I shall not read now is an original sketch. I have photostatic copies made of this and a translation. Therefore, I cannot submit it to you now. Excuse me, I shall give the Exhibit number 12 to this document and this sketch. The experimental room is included.

THE PRESIDENT: Just a moment. Counsel, the Tribunal has the English translation. It has the document both in German and in English.

DR. STEINBAUER: I had the sketch made here. You have it, too, Mr. Hardy, don't you? This sketch is added to the Mission affidavit in its original form. I had photostats made of it in addition. I had a translation made for the Judges which I could submit to you only at this moment.

THE PRESIDENT: We have the document, both in German and in English now.

DR. STEINBAUER: The original of the sketch is included in the document of the Mission affidavit in the back, toward the back, the last page. The original is included in the Mission affidavit. Photostats and English translations were made so that the expressions will be understood.

Mr. Secretary General, would you please be so kind as to hand the original to the Judges?

THE PRESIDENT: Counsel, I understood you to say the original translation had not been prepared but we have it.

DR. STEINBAUER: No, it is included here. It is attached.

THE PRESIDENT: Very well, I must have misunderstood you. The document appears to be complete.

MR. HARDY: May I inquire, your Honor, whether or not the affidavit purports to contain a certificate therein certifying that the chart is a true representation of the conditions existing in Deckau?

DR. STEINBAUER: The signature — Dr. Servatius submitted the original to the witness in Cologne. Dr. Mission certified that it was correct in the presence of Dr. Servatius. This is apparent in the affidavit. On the original you see the signature of Walter Mission.

THE PRESIDENT: I find no certification by Dr. Servatius.

MR. HARDY: Only on the affidavit, your Honor.

THE PRESIDENT: Does the affidavit refer to the chart? I haven't had time to read it yet.

MR. HARDY: It obviously does not, Your Honor, inasmuch as the chart is dated 24 April and the affidavit is dated 24 March. I will not object to its submission in evidence but I want him to clarify this certification, and, if possible, have it certified before the close of the case.

DR. STEINBAUER: We shall ask Dr. Servatius. I did not speak to the witness myself because the trip was too inconvenient but Dr. Servatius spoke to Mission and submitted it to him. I shall ask Dr. Servatius for a certification and shall hand it in afterward, also a certification of the sketch.

THE PRESIDENT: Very well.



BY DR. STEINBAUER:

Q Would you please continue now, witness?

A In this sketch the room in which my experimental persons were lodged is marked by a broken line. Next to this room is a smaller room in which the medical students were living. These were the French medical students whom I had taken out of their working companies and put into the hospital where they had better living conditions and could get better food. Through this room where the medical students were living one could go into the court yard about which the witness Viehweg testified. The door is marked by an arrow. A second way to get into the court yard was through another door of the experimental room via the main corridor of the hospital. Since not all of the experimental subjects were included in the experiment at one given time but in two divisions which alternated, they could always take walks in the court yard if they happened to be off and when the weather was good they also ate in the court yard. Thus the witness Viehweg had ample opportunity during the entire length of the experiments to talk to the experimental subjects. I never prevented him from carrying on such a conversation. His statements that only during the first days of the experiments he could talk to them is not correct.

Q How was the execution of the experiments themselves?

A As it had been laid down in the program of the experiment which was given to me, all of the experimental persons were first given the food that the aviators received, that is, about 3,500 calories per day, and in addition the so-called heavy labor food, so that they received about 4,000 calories per day.

Q Were there additions to these calories?

A The additions were the food for heavy labor. That was, as far as I remember, eggs, butter, grade A milk, etc.

DR. STEINBAUER: Mr. President, in that connection I want to submit two documents, first document No. 26, in my document book No. 2, on page 103. I would like to give it Exhibit No. 13. This is an original

document of the military district medical supply depot No. 17, about the food that was given to the experimental subjects. On page 103, document book 2, this next document I would like to submit -

THE PRESIDENT: Just a moment, counsel.

MR. HARDY: May I inquire again if this document - does this purport to be a list of the food permitted to Beiglboeck for use at Dachau?

DR. STEINBAUER: Yes, this document has to be regarded in connection with the next one which I want to submit, from which it can be seen quite exactly what quantities were given to the experimental subjects for the so-called staff feeding. The first document is a result of the experimental station regarding the food Beiglboeck is to have for the carrying out of the experiments in a very scientific and exact manner, and with everything I have now I can even submit the weather chart for every single day but that is of no great interest to us. This is only so that I can meet the objection that the people did not get anything to eat. They got excellent food. If you will look at the list - 2090 canned meat - and that is how it goes on, white bread, butter, cheese, jam, Roests biscuits, chicken eggs, sugar, semolina, raw potatoes, and in the second document which I now want to submit as Exhibit No. 14, it is the following document on page 105, it says at the top, if you will look at that document: "Bei: Experiments to render sea water potable. Delivery of food supplies for experiments." It is addressed to Oberarzt Prof. Beiglboeck, SS Entomological Institute at Dachau. It reads:

"Please receive herewith from this station food for the experiments in the following quantities: We should be obliged for a receipt as deduction voucher for the kitchen housekeeping book.

For 32 men for 7 days (experimental group I)

- |                     |   |
|---------------------|---|
| 1.) Beef in tins    | 9,350 kg - 11 tins each containing 857 grs. |
| 2.) Fat (margarine) | 3,201 Kg.                                   |
| 3.) Jam             | 9,600 Kg.                                   |
| 4.) Potatoes        | 27,000 Kg.                                  |

5.)	Army bread	112,000 Kg.
6.)	White bread	44,800 Kg.
7.)	Gravy Powder	11,200 Kg.
8.)	Cooking Fat (Margar.)	480 Kg.
9.)	Sugar	8,960 Kg.
	Coffee Substitutes	2,016 Kg.
10)	Cottage cheese	8,000 Kg."

Then the so-called starting rations:

11)	Full cream milk	112 ltr.
12)	Eggs	224
13)	Butter	5,600 Kg.
14)	Samolina	5,600 Kg.
15)	Roasted biscuits	24 packets
16)	Cigarettes - 6 for each person per day"	

That is all together 1344 cigarettes, and then the signature of the Stabschleimeister.

DR. HADLEY: I must inquire your Honor what is the purpose of introducing document No. 26, which is Exhibit No. 13. From what I see the food is the same as that Professor Beiglboeck in Exhibit No. 14, dated the 11th August 1944, Exhibit No. 13, which is dated 19 August 1944, and obviously pertains to the same subject, one is the Examination of the food at the Vienna Branch of the Technical College Biochemistry Institute of the Technical Department. I don't see the connection between the two documents.

DR. STEINBAUER: It is very easy to clarify this. The second document only pertains to the delivery and it is dated the 11th of August, and in order now to get a scientific basis for his experiments Professor Beiglboeck in regard to these foods sent samples to Vienna in order to determine the amount of salt and the amount of water contained in it, and the food office made records of this in order to find out what the basic values were. For example, canned meat, sodium chloride, 1.5, per-cent 73, that is 73 per-cent water, is that right?

A The reason why I still have this receipt is because I had to have the analysis. I had to know how much salt they received in the food.

Q I am now asking you did the gypsies - did this food agree with the gypsies?

A One can certainly say so, and they ate it with a great deal of appetite. They enjoyed it.

Q Witness, in Exhibit 139, the witness, however, says that the experimental subjects, the food did not agree with the experimental subjects.

A Tschofenig was working in the x-ray station. He was the Kapo there. Tschofenig never entered my experimental room at all. He once or twice saw my experimental subjects for a short period of time. Usually I was present myself during the x-ray examination for the reason he reports just what he heard and not what he knows from his own observation. The statements in Exhibit 139 begins with a description of the experiments carried on by Dr. Rascher and the statement ends with a description of the experiments carried on by Dr. Rascher and in the middle I am so that something that is said about Rascher's experiments also applies to me. Of course, I want to raise some doubts as to whether Tschofenig when he would have been asked about Rascher's experiments would have also talked about the sea water experiments. Herr Tschofenig only reports rumors.



Q. In that connection I want to refer to the testimony of the statement of the witness Dr. Horn, German transcript page 5395. He describes how these rumors arise. As defense counsel I also wanted to find out something about the personality of the witness Tschofenig. I applied to the government of the province of Carinthia, since Tschofenig is living in Klagenfurth, and I received a letter from them which says: "Tschofenig is not Slovene representative but he is of Carinthia. According to reliable testimony he has several previous convictions but I do not know any details about this so far. It is correct that he was in Dachau as Kapo. He became very disliked by a number of political prisoners." I also wrote to the government of the province of Carinthia about details and I received the answer: "I could not find out any more details about Tschofenig. It is, however, felt that he was Kapo. A great deal is being said here but nobody is ready to make a definite statement." I read this not in order to submit it in evidence.

MR. HARDY: I object to these remarks of the defense counsel pertaining to the character of one witness Tschofenig. If the defendant has something to say about Tschofenig's character, defense counsel may well put questions to the defendant, but if defense counsel wishes he can take the stand and testify himself.

THE PRESIDENT: Prosecution's objection is sustained. The reading of the letter by counsel which he has received is entirely irrelevant and will not be received as part of the testimony in the case. Of course, counsel may prepare an affidavit, if he can do so, which will be in proper form to receive, but merely reading the letter is not a provocative matter at all and cannot be considered.

MR. STEINBAUER: This is an official document by the governor of the province. However, I shall try to get an affidavit to this effect. I only wanted to demonstrate here how difficult under certain governments it is to obtain evidence material.

THE PRESIDENT: If counsel is of the opinion that he has a document which because of its official nature constitutes a proper exhibit in

evidence, counsel might offer the document in evidence subject to objection and argument but certainly just reading the document is not evidence and cannot become part of the official record.

DR. STEINBAUER: I shall try to obtain an affidavit when I go to Vienna.

Q. Witness, at this stage did you already carry on examinations of experimental subjects?

A. Yes, of course, we were after all concerned in this preliminary period to obtain the preliminary estimate in order to make a preliminary determination in order to be able to prepare the matter later on. Thus urinalyses were undertaken regularly; from time to time the blood was analyzed; electrocardiographs were taken, the function of the kidneys was observed. This was especially important because the kidneys had to accomplish a great deal and in order to exclude damage to the kidneys the background of the eyes was also examined by a specialist.

Q. Was this specialist an SS physician?

A. During my entire sojourn I saw SS physicians only very seldom in the camp. As far as I knew, the only physician who was working there was the chief physician of the hospital who, however, I believe concerned himself mainly with the administration. The care of the prisoners was exclusively in the hands of the prison doctors. Some of them whom I met had an excellent medical education.

Q. After the conclusion of these preliminary examinations the experiments began. Can you describe briefly what was then at stake in these experiments?

A. The experimental subjects were divided into three groups which differed in principle. The first group received the Schaefer water. There were altogether five experimental subjects. During the first four days they received food that people at sea distress were supposed to get. During the following days they did not receive any food. Thus, this was something like a fast. Such a fast is used quite frequently now in modern medicine. There is also an American physician in particular by

the name of Tenner who at the end of the 19th century introduced this method again in medical therapy. I had quite a great deal of experience regarding this treatment by fasting. Therefore I could diagnose the symptoms that occurred during that very well. This group that received the Schaefer water was included in the experiment for 11 or 12 days. All of the other groups were experimented on for a shorter time.

Q. Were there any incidents that occurred?

A. This group of course went through the experiments without any complaints and without any incidents.

Q. Well, in the other groups what were you concerned with there?

A. One of these two groups was the hunger and thirst group, the other the group with sea water. Both of these groups had the following in common: The water balance in the body is affected. They have the so-called anhydramia or dehydration. Such an attack on the water balance in the body of course is much more important than the hunger and it is well known that there are people who will hunger by profession and they fast for long time for political and religious reasons, for instance, Ghandi. Cases have occurred and have been certified of people who live for 40-50 days without taking in any food. That is possible only if they receive sufficient liquid. That is about one quart per day. If at the same time they, however, have to thirst, the body sustains it for a much <sup>or</sup> short period. One assumes in general that the tolerance of thirst is about 14 days. Only a short time ago I read in Stars and Stripes that in America a Miss Wolfe in New Haven started a hunger and thirst strike and for thirteen days she lived without food or water and that gradually they were considering to give her liquid artificially. The fact that the human body can live without water for a relatively short period is connected with the fact that even when it is a condition of thirst it has to eliminate water constantly. Even if this elimination is limited to the smallest amounts possible, nevertheless there is a loss of water. We know that the amount of urine which is eliminated normally when the food intake is normal amounts to two to three liters or quarts per day.



It can be reduced up to 200 cc. and that the elimination of water through the heart and lungs is decreased. Observations have even been made that when thirst reaches an extreme the lung is able to take liquid out of the air. The amount of the loss of water is decisive in the question of life and death. One knows from the animal experiments and one concludes it from observation of sea distress that a loss of 22 to 25 percent of the water in the body results in death. In general one considers that if 20 percent is lost the danger to life begins. Up to 10 to 12 percent can be lost without any damage. These amounts are the so-called depot water of the body, that is, the water supply that is free in the body. Only when this has been used up, the water of the body cells is attacked and in this amount between 12 and 22 percent there is some destruction of the cells which does not mean danger to life but danger to the normal function of the body cell. That is a certain danger.



Q The lack of water is seen by the fact that the organs which contain a lot of water, eliminate water - first of all the skin and the muscles, secondly the blood which is a liquid and contains a lot of water - thus the skin dries up and the mucous begins drying up and there is a hardening of the muscles. The liver becomes slower, because it too eliminates its water, and a so-called thickening of the blood where the solid parts increase proportionately and relatively.

Q Is the taking away of water also used in medicine for therapeutic reasons?

A Yes, that is done too. People who suffer from kidney diseases are exposed to thirst under certain circumstances. This is carried on for 10 days, or even longer. Naturally then due to the retention of water the liquid in the body of these persons is increased. But there is also a certain diet which formerly was used for reducing diets, the so-called Schroth diet named after the discoverer Schroth, who discovered this therapy. In this diet they receive only dry solid food, and the liquid is reduced to a very small amount. This diet was carried out formerly to a very heroic extent, and in the older literature there are reports in which 10 to 15 per cent of the body liquid was given up by patients.

Q Are there possibilities during such a diet or during these experiments to calculate a loss of water exactly and to do so constantly to follow how much water is lost?

A Yes, that can be done very well. There are several ways of doing this. First, the body weight, secondly the measuring of the amount of urine. From the relationship of these two amounts one can determine the amount of water which is eliminated by the skin and the lungs. Of course, one has to consider how much is lost by water and how much is lost through the hunger, the starving and finally from the analysis of the blood. One can see very quickly to what extent the drying up is going on, for the blood consists of a watery liquid or albumen on the one hand and a lot of blood cells on the other hand. If

water is lost the blood becomes thick and its protein content becomes larger. This can be seen through very easy methods of analysis. All of these analyses were carried on during our experiments. As finding the amount of water lost, we had by using the group which received the Schaefer water to calculate exactly the loss which resulted from the starvation alone, thus we could gain exact figures for the loss of water.

Q What are the symptoms which result from the taking away of water?

A I already described them in part. I only want to mention here that in the text books usually one finds definite pictures described, that is by means of an illness which is carried on together with a disturbance of the water balance. That is the so-called diabetes insipidus. In the case of this sickness the human kidney loses its ability to contain water and eliminates endless amounts. Such patients lose 10 to 12 liters, that is quarts, of water per day. In extreme cases 40 liters or quarts have even been observed. It is obvious that these people have to drink just as much as they eliminate. If the water is now taken away from such a patient he naturally reaches the stage of being dried up incomparably quicker than a healthy person. Since there is also a hysterical form of this disease, and this can not be distinguished at first sight from the real disease, the physician is frequently forced to undertake a thirst experiment in order to make a proper diagnosis. Therefore, one knows the strong thirst symptoms. It is obvious that such people if one would take water away from them entirely could be brought to the deadly limit of the loss of water within one or two days. These are people who have brain diseases, and therefore it comes about that in the thirst experiments these people react with very strong nervous systems. Therefore, this is the source of the rumor that the thirst can bring about mental disturbances so easily. In a normal person the thirst experiment never brought about such results.

The second group of diseases are the diarrhea diseases, and I saw not only one but very many dysentery cases in Russia, and they lost up to 20

per cent of water, that is the limit of the danger to the life. This condition is so dangerous because the water is lost so very quickly. Secondly, because salt is lost with it and the lack of salt is always a very great danger, and it is dangerous thirdly because these are toxic diseases. From these diseases one can not draw a parallel, to a normal thirst experiment, because there is a difference between a disease and a condition of lack.

Q This extraordinarily important difference, could you please explain that to us briefly?

A In the case of a disease we are always concerned with the struggle between the body and the cause of the disease. That is mostly the bacteria. Here are the positive agents, and here are the defensive forces of the organism. Here there is a struggle between two forces. In the case of a condition of lack it is quite different. The body is deprived of something which is used normally and which it is using normally. Such conditions of lack, for example, are the lack of salt if there has been a great deal of perspiration, and the lack of salt when the kidney is insufficient - the Adrenal insufficiency; then the condition of the lack of vitamin, lack of sugar when large amounts of insulin have been administered, or oxygen lack which Dr. Ruff has described. Thus only one physiological component is lacking here in each case, and one can deal with small mathematical certainty what this lack is, and for that reason every physician is, so to say, glad that when a sick person does come to him he has to treat a condition of lack of some important component, because therapeutical successes can be gained surely and it can be very quickly. If a person who is in a condition of insulin shock is administered sugar within a few minutes his heavy symptoms are eliminated; if an anemic person is allowed to breathe oxygen he is alright again; if a person who is hungry first is allowed to eat, if a person suffering from thirst is allowed to drink, if a person suffering from lack of vitamins is administered vitamins, he becomes healthy again. Any



condition of lack can be cured by administering the component lacking and there is no damage to the body. There is either two alternatives, one dies because of lack or lack is removed and one becomes healthy again.

Q. Witness, before you said that the taking away of water and the taking of seawater generally brings about the same changes in the body; is seawater as such a toxic?

A. Certainly not, because it is used for purposes of curing people and I can report here from English medical literature that Russell gave one of his patients altogether 112 liters or quarts of seawater, in daily doses of about one-half quart; another person drank for four months one-half quart each morning. That is altogether 60 quarts; and one person for 9 months drank about one-half quart, that is altogether about 135 quarts, of course, together with fresh water. From these figures it is quite apparent that seawater as such can not be toxic, and one also knows that seawater practically never contains germs, bacteria, at least not pathogenic agents. There are many and various examinations that have been carried on about this and from the entire literature about dangers at sea I do not know of any case which reports an intestinal infection due to the taking of seawater. The seawater which we used had been bacteriologically examined in two institutes, moreover it had also been filtered, and it therefore was free of any bacteria. My assistants and I also drank it very frequently, and none of them nor myself either got any intestinal diseases, and neither the experimental subjects. The danger of seawater is alone the fact that it is a relatively highly concentrated salt solution. This needs water for its elimination. This water has to be administered either after fresh water, and if that is not done body water has to be added. If a person is given one quart of seawater to drink, say he must add about one-half quart, because the kidney concentrates only about 2 per cent of salt if it concentrates more this additional amount is less. With 500 cub. cent.



one can consider that about 200 per cent have to be added by the kidney, that is 200 additional percentage have to be eliminated, if the kidney concentrates as much salt as the seawater is concentrating. This could be seen quite clearly in Sirany's, as well as in my cases. Only that water is lost which is eliminated by the skin and lungs and since this elimination is relatively increased a little. Therefore, seawater can be taken longer than one assumed formerly, according to the theoretical suppositions. Thus the only question is to what extent the water supply of the body is attacked by the taking of seawater.

Q You now have spoken about the condition between disease and the lack, now I ask you can such a condition of lack be observed so that an endangering of life or health is impossible?

A Certainly, and we also know from all of those cases of sea distress who were rescued that they were restored relatively quickly. Among those there were cases that became known of people who while at sea distress lost 40 to 50 pounds in body weight; even a case was described where a person lost 5 stone; in spite of that all of them were restored to health. There is a possibility in such extreme cases, because of course in a condition of lack it is such a danger, and one must not forget that in cases of sea distress many other things, such as weather and the lack of sleep and the like are additional strain on the body.

Q Therefore, during your experiments you could assume with good conscience that your experimental subjects would not suffer any danger?

A Since the amount of the loss of water was constantly controlled the examination of the blood, urine, and weather were carried on daily, of the metabolism, the lungs, etc. we could, of course, recognize the limit of non-tolerance and therefore I could be sure that he would not go beyond the danger limit. Actually none of my experimental subjects was forced to that sphere. I calculated the loss of water very carefully, and of course gradually saw in so doing that many of my experimental subjects drank fresh water in addition time and again. With this secretive drinking of water they did not do a good service neither to themselves nor to me, not to themselves because the experiment lasted longer. In such a case until I knew with certainty what had calculated this disturbance of this experiment, and they did not do a service to me because a great deal of careful work was destroyed by that.

Q How were the experimental subjects supervised?

A In any case it was not as strict as can be seen from these incidents which I have just mentioned, that it would not have been possible for them to drink fresh water on the side, and in some cases it happened not in considerable amounts.

Q. I have to ask you, does this circumstance itself that they again and again drank water does that not speak against the fact that these persons were volunteers?

A. First I want to say that the circumstance that many of the experimental subjects did not drink fresh water on the side speaks for the fact that they were volunteers, and it does absolutely so, for if the possibility to drink fresh water is given and the person does not do so, in spite of that, it must be a volunteer. Moreover, on thirst it is an experience which is so daily that even the most intelligent patients time and again drink something on the side in between secretly. Thirst is one of the strongest impulses of nature and it is very difficult not to give in to it, and for that reason thirst experiments have to be carried on behind locked doors, and the doors of my experimental room were apparently not locked securely enough.

DR. STEINBAUER: Mr. President, in that connection I want to refer to Document Book 14, from the Document Book Schaefer, page 38, where Huebner, a well known expert, speaks about these measures of locking the room. From my own Document Book I now want to submit Document 29, Document Book 2, page 108. I give that exhibit number 16.

THE PRESIDENT: What is the number of the Document concerned?

DR. STEINBAUER: No. 29, Document Book 2, page 108, Exhibit 16.

THE PRESIDENT: Is that not Exhibit 15?

DR. STEINBAUER: Yes. Excuse me, please. It is No. 15, Your Honor. It is an excerpt from a very well known medical work of Professor Derrig, about the importance of water and the metabolism and nourishment of human beings. I do not want to read the entire excerpts, but I call attention to the center of the first page in which it says: "While the people are able, during the early days, successfully to fight their thirst with a good grace, their energy is insufficient during the later days; they devise extremely subtle means of obtaining water, see the case of Juergensen." Then on the second page I call your attention to the table of weights, in which the loss of weight is

shown in a case, and in the summary at the end I call your attention to "2)" which says "the weight and size of the body decrease rapidly."

Witness, I ask you did you always terminate the experiments immediately when you found out that fresh water was being drunk?

In the few cases where we observed that directly, yes, we did interrupt them. In other cases not always or not immediately. Of course, I often had the suspicion that this had happened, but it was not always possible to prove it immediately, especially in the first series of experiments. I was confronted with great difficulties. First, one had to make exact comparisons of a certain amount of urine and elimination of salt until one could ascertain with certainty. If the experimental subjects had in each case admitted it immediately that they drank fresh water and how much, then, of course, it could have been simple, but in this way we in many cases got findings which lead us on a long course, so that frequently we gained the impression that some salt was being retained, some water being saved up in the body. In other cases one gained the impression that not all of the salt was being absorbed, so that at times I had some doubts and thought that perhaps Berke's preparation does have an effect on the absorption of salt, therefore, I asked the experimental subjects again and again whether they had not after all had some fresh water, in order not to become a subject of deceit, but they constantly and stubbornly denied that, and therefore in many cases at the end of the experiment it was pushed out because if they had taken water the general condition was such a good one that no danger could be expected, no danger of any kind.

THE PRESIDENT: The Court is about to be in recess. I would like to ask you if you can give the Tribunal any estimate as to the length of time your examination of the witness will continue?

MR. STEINBAUER: I believe that I shall be able to finish today.

THE PRESIDENT: The Court will be in recess.

(Thereupon recess was taken.)



Court 1.

THE MARSHAL: Persons in the courtroom will please find their seats.

THE PRESIDENT: Counsel may proceed. The Tribunal is again in session.

BY DR. STEINBAUER:

Q. Witness, did the experimental subjects say that they had not drunk any water because they were afraid of punishment?

A. I assured them repeatedly that they would not be punished, either if they had drunk or if they had interfered with the experiment in any other way and no one was punished, not a single person. I merely asked them again and again to tell me the truth because by these evasions the experiment was made very difficult. It was sometimes impossible to form any definite judgment on the experiment especially when small amounts of water were taken.

The experimental subjects had an entirely different reason for keeping their minor and major sins secret from me. At the beginning, as I see now, I made a psychological mistake. I promised that those who did well in the experiment would later be given cigarettes in the form of a premium, as it were, and now they thought that the longer they held out in the experiment the better the experiment would be. Therefore, they tried to stay in the experiment as long as possible and so this prospect of getting cigarettes induced them to get water secretly, and this was the reason why some I caught when they were drinking water, in order to get the cigarettes volunteered again, without any compulsion from my side, to go through the experiment the second time.

These were eight cases all together, these were people who had lost very little water because they had drunk fresh water during the first experiment, and they were cases which as I can show definitely had at least the same weight when they were released as when they were accepted.

Q. Now from the record of the trial I must show you Exhibit No. 139, the testimony of the witness Tschofenitz. He says that you turned the experimental subjects over to the insubordinate ones over to the SS to be treated in the way customary in the camp, what do you have to say about that?

A. That never happened. If the experimental subject repeatedly denied having taken water that annoyed me and I scolded them, I admit that, but I never punished or had punished any one of them. No SS man ever entered my experimental room, none of my experimental subjects was ever turned over to the SS for punishment or to be made compliant and I cannot imagine why Mr. Tschofenitz made this statement. He probably concludes from the general to the specific. He probably does not care in this case if he said something that is not true. At any rate he has not the shadow of proof.

Q. Mr. President, in this connection I should like to submit Exhibit No. 16, Document No. 16, on page 52 of my Document Book. This is an excerpt from the book, "The SS State," by Kogon, page 317-318.

MR. HARDY: May it please the Tribunal, I must object to the admission of this extract by Kogon, in as much as this particular extract is taken out of its context, after this paragraph is contained in the document, in Beigeldorck Document Book No. 1. you will find in Kogon's Book, "The SS-State," that in subsequent lines Kogon emphasized the remarkable fact that this attitude - as set forth in

this paragraph being introduced now - changed as soon as liberation came. None of the expected acts occurred, and the prisoners behaved with remarkable objectivity. If at all the whole page of Kogon's book should be introduced to show the fact that the revengeful attitude that might be exhibited in this paragraph Dr. Steinbauer is now introducing, never actually occurred or the inmates didn't exercise such revenge. I think that this should be brought out in this particular connection.

THE PRESIDENT: I wonder if it could be agreed between defense counsel and the Prosecution that any extract from Kogon's book which has not been translated could be used and read into the record by either Prosecution or any defense counsel, and the whole book or all portions deemed pertinent by Prosecution or defense counsel could become a part of the record. I suggest that for consideration by the Prosecution and by the Defense Counsel.

MR. HARDY: Your Honors, I am not off hand able to recollect whether or not Kogon's book has been offered in evidence. Does the Tribunal recall that?

THE PRESIDENT: I don't think so, because it was not translated. We felt that was an unsuitable objection which might well be.

MR. HARDY: Now the introduction of this document, the paragraph which Dr. Steinbauer has extracted, when he introduced this as the Beiglboeck exhibit, could at this time the Tribunal accept the entire book rather than just this extract, then the entire book will be before the Tribunal and we can quote portions or sections thereof in brief or at other instances.

THE PRESIDENT: It was with that end in view that I made the suggestion which I made a moment ago and defense



counsel might object if the book has never been translated but they could have it read to them and ascertain if the original of the book was in -----

MR. HARDY: The original book is in German, Your Honor.

THE PRESIDENT: It has been translated into English?

MR. HARDY: I think the translations are available in English, your Honor.

THE PRESIDENT: The whole book?

MR. HARDY: Yes, Your Honor.

DR. WHITE: For the defendant Handloser:

Mr. President, I should like to raise a basic objection against the introduction of the whole book, the SS State, by Kogon. The book has three or four hundred pages and has some very important matters in it, but material matters which cannot be checked. The witness Kogon when was on the witness stand here was asked the question, was asked concerning a definite fact in his book, he said I should like to emphasize, I am not being asked about my book here but want to testify merely to what I am asked here and what I answer here, I should like to point out that my request to have the printed report of the meetings of the consulting physicians were not accepted, because they were too extensive and could not be translated. In comparison to that it is a big burden on us defense counsel, if we are now confronted with the question of finding the individual pages in Kogon's book of looking through the whole book and having to disprove statements in it. Therefore, I ask you not to accept the entire book in evidence but merely the pages from it, which are important in the eyes of the Defense and the Prosecution, and which can be certified so that we can answer the individual charges.

THE PRESIDENT: If the book has been translated and



copies of the translation of the book can be made available to the Tribunal not as evidence but available to them for reference, then when either the Prosecution or any Defense counsel desires to use any portion of the book, copies of the portion and supplemented by any portions of the context which opposing counsel desires to put in could be introduced in evidence. I suggest that matter for the consideration of the Prosecution and of the Defense Counsel. It is, of course, unfair that a mere few words out of the context be put in when the context may vary very greatly the meaning of the portion which is introduced in evidence.

DR. STEINBAUER: Mr. President, that is not the case here. It is only a psychological reference to the fact that the testimony of primitive people must be examined very carefully, because the people have suffered terrible things, that is what the paragraph means, and that is my purpose in submitting it.

THE PRESIDENT: Of course, counsel for Prosecution is of a different opinion, as stated in his objection and the Tribunal is not in a position to rule upon that matter, not having the context of the book before it. I will ask counsel for the Prosecution if he is aware whether or not the translation of this book can be made available to the Tribunal.

MR. HARDY: Yes Your Honor, I am certain we can. I believe now Judge Swearingen does have one copy and I will make an attempt to get four or five more copies of the English and make them available to the Tribunal. If the Defense counsel could supply the Tribunal with the page number, this paragraph appears in Kogon's book so that it may be compared to the English, and then if the Tribunal desires to place any merit on this particular paragraph

Court 1  
June 9-11-8-5-ED- Cook-Von Schoen.

they will be able to ascertain where it was taken from and  
whether or not it is in our out of context.

THE PRESIDENT: Objection is over-ruled. This may be submitted. Prosecution may either furnish copies or furnish additional copies of the adjoining portion of the page, the context of which this is a part, and submit anything it desires in that line.

MR. HARDY: Thank you, your Honor.

DR. STEINBAUER: I shall read this short paragraph then, page 317 and 318: "The majority of those in the camps were filled with an inconceivable desire for revenge, the mental reaction to their helplessness. Tortured people racked their brains for new, greater, far more evil tortures which they would inflict sometime on those who now vented their cruel moods on them. This desire for revenge was extended to the whole national socialist regime and its adherents ...."

THE PRESIDENT: Do you want that marked as your Exhibit 16, counsel?

MR. STEINBAUER: Yes, 16, please.

Witness, now what were the symptoms which you observed on the experimental subjects during the experiments? Please be brief.

A. In the first period there was the feeling of hunger in the hunger and thirst group because there was still enough available. From the third day on approximately this feeling of hunger was displaced by thirst and practically disappeared. With the loss of water there came a sudden drop in body weight. Therefore, thirst causes a bad appearance. The person becomes very thin, and, of course, to a layman the person looks much sicker while in reality there is merely a lack of water in the skin and the muscles. The skin becomes dry. There is no perspiration, the mucous membranes become dry, the mouth and tongue are dry and the eyes lose their shine and they burn a little. The secretion of saliva is reduced and eating becomes unpleasant. Then the water is lost from the muscles which brings about a hardening of the muscles and excitability of the muscles. There is a feeling of heaviness in the limbs and a certain uncertainty in movements and also the desire to move as little as possible and to lie in bed. That has the

advantage that the loss of water through the lungs is thereby reduced. The temperature remains normal on the whole. Small variations of 37.3 to 37.5 can be observed in individual cases. There is constipation as is a typical symptom reported from cases of distress at sea. The drying of the palate makes a dry cough in some cases. For the first 2-3- days sleeping is still possible. Then it becomes interrupted and is an interrupted sleep but there is a short period of sleep and then awakening. And, therefore the subjects are sleeping almost somnolent during the day. This condition of dehydration has been described frequently. This occurred in the same way in all the groups which went without water.

THE PRESIDENT: witness, the Tribunal will be in recess for a few moments.



9 June 47-MJG-10-1-Maloy  
Court 1

THE MARSHALL The Tribunal will be in recess until 1330 this  
afternoon.

(Thereupon a recess was taken until 1330 hours.)

AFTERNOON SESSION

(The hearing reconvened at 1330 hours, 9 June 1947.)

THE NARSPAL: The Tribunal is again in session.

THE PRESIDENT: Counsel may proceed.

WILHELM REIGLEBECK - Resumed

DIRECT EXAMINATION (Continued)

BY DR. STEINBAUER:

Q. Professor, how long did the experiments last?

A. That differed considerably. I said already that the group who received the de-salted sea water was in an experiment for eleven to twelve days. The thirst group remained in the experiment four up to six and a half, that is, up to the seventh day. The two people who remained in the experiment for six and half days had, as calculations showed, apparently drunk some fresh water in between. Of the group who drank a thousand cubic centimeters of sea water none showed results that were without doubt. Four of them must have drunk relatively small amounts of fresh water. They remained for four or five days in the experiment. Of the others who drank a large amount of fresh water, some by the liter, as we could calculate later on, most remained in the experiment six and seven days with the exceptional eight days and one, I believe, even nine days. In this case it was especially difficult to recognize immediately that he had taken in water and that for the following reason:

When I noticed for the first time by the amount of urine that the experimental subject had drunk water, because the amount of urine had, of course, increased, I reproached him about that. Thereupon, they adopted the trick to throw away half of the urine that they eliminated in order to deceive me in that manner. Through that I was caused to draw a wrong conclusion. In the examination of the urine it showed now that relatively small amounts of salt were eliminated. Thus I was of the opinion that salt was kept in the body and in that way water was saved.

In these cases, of course, the loss of body weight was small. It stayed the same. There was even sometimes a temporary increase in weight. In this case the condition of losing weight was stopped by this means and was made up again and also the experimental subjects felt fine and they did not show an increase or even showed a lessening of the dehydration symptoms.

After the event, of course, it is easy to say one should have noticed immediately all of that, but in the middle of the experiment it was not so simple as all that, especially since we were dealing with a preparation, the effects of which had not been clarified yet entirely, and one was not quite sure that an unsuspected effect of this preparation might appear. This experiment put us in a very difficult position in judging it and several times one could almost despair, especially because it was so difficult to prove that these people had taken in fresh water and because it was so difficult to get the experimental subjects to confess. The means by which they obtained water were, of course, many fold and everybody in the surroundings was helpful. Therefore, this experiment, at least for a large part of the sea water group, was to be regarded as a complete failure. Our fight against this constant drinking of water was a difficult one, not because I had perhaps not understood that a person if he is thirsty obtains water, but what I wanted to achieve was that these people should have honestly come to me and said, "I just couldn't stand it any more. Last night I drank a liter of water." Everything would have been all right and quite simple; it is quite clear that sea water makes you thirsty and that, therefore, the group with the thousand cubic centimeters of water, of course, was subject to this temptation the most.

On the other hand, the group with five hundred cubic centimeters of sea water, to a relatively large extent, yielded at least a useful result. There are some among them who certainly did not drink anything on the side and some who drank very little. They remained in the experiment five to six days. Those who had obtained fresh water remained seven,

eight, or, a few of them, even nine days in the experiment.

Of all the groups that of the five hundred cubic centimeters of sea water was in the best situation because their loss of body weight was the lowest and there was hardly any experimental subject in this group who reached the limit of ten percent. The loss varied according to the manner of conducting the experiment from four percent to eight percent. Some of them drank so much fresh water that they were balanced at the end of the experiment and had the same water content as at the beginning of the experiment. In the two most difficult groups, in the thirst group and in the thousand cubic centimeters of sea water group, too, no one exceeded the limit of ten percent to, at the most, twelve percent of loss.

Thus, not a single experiment is included which advanced into the zone where one can really consider damage to the health of the subject. I made these calculations very carefully and I believe that for the manner in which they were made that I can take the responsibility before any scientist. I am convinced that the dehydration did not reach any dangerous extreme in the case of any one of my experimental subjects.

Q. These last remarks you could repeat with express reference to your oath which you have sworn?

A. Yes, I can do so. As I have already stated, I made the calculations in such a way that I worked out the loss which came about through fasting with special consideration of the water balance of the Schofer group. What remains is the water loss and that loss of water was calculated by me and in no case, as I said, did it amount to more than twelve percent. Thus, to the best of my knowledge and my conscience, did I calculate it and state it according to the truth.



Q In the case of these experimental subjects, after the drinking of sea water, did they get diarrhea?

A No, not in a single case. On the contrary it was noticeable that practically all of the experimental persons were strongly constipated.

Q But Dr. Schaeffer reports that in Dr. Sirany's experiments diarrhea was observed.

A The difference between Sirany's experiments and my experiments was the following: The experimental subjects used by Sirany could drink sea water just as they liked and some of them drank large amounts at one time and that is at a time when the body still had sufficient water. Taken in such amounts the sea water has the effect of causing diarrhea. In our experiments, the experimental subjects received sea water in small amounts of 100 to 200 cubic centimeters per dosage, five times a day. The witness Fillwein has stated in the affidavit which the Prosecution has submitted as Exhibit No. 140, if I am not mistaken, in his statement of the 13 March 1946, stated before the Vienna police as follows: The participants were moreover in addition given daily four to five times a day salt water in amounts of one half to one quart all together. This shows that the amounts were not larger than 100 to 200 cubic centimeters per day. From the experiments undertaken by the Englishman Hay from the year 1884, it is known already that the salts which cause diarrhea, if one is in a state of dehydration already, do not have that effect any more, but in the case a stubborn constipation appears. Moreover, Sirany used water from the Adriatic which had not been examined bacteriologically and ours was guaranteed to be free of germs.

Q In the case of your experimental subjects, did they get fever?

A The highest temperatures which I saw in the sea water cases were around 37.5 centigrade, only on two cases immediately after the intravenous injection of hypertonic sugar solution or salt solution, there was a short rise in temperature, an occurrence which otherwise

in practice is quite frequent after intravenous injections, but that is not the effect of sea water but the effect of intravenous injections of liquid that appears in every tenth or twentieth patient, and it is a short rise of temperature which lasts for about an hour and then it subsides again, but as to sea water itself nobody could get any fever from it.

Q What was the degree of temperature?

A I already said that they did not go above 37.5.

Q Why then according to statements of witnesses, were those patients delirious with fever, the experimental subjects?

A Normally there was a delirium from fever if a patient has a 41 degree temperature, over 100, but where it is 37.5 or even less, one cannot have a delirium from the fever. Such testimony is a shame for the witness, otherwise there was also no delirium in any case, not in a single case, the delirium which usually comes more from drinking than from thirst after the drinking of sea water, can be observed once in a while in the most rare cases, but in such a degree of dehydration as occurred in my experiments they are not possible and actually they never occurred.

Q Witness, how did the ending, the interruption of the experiments occur?

A I either discontinued the experiments by the intravenous injection of liquid, or in the thirst group, I gave them a solution of salt, light hypertonic salt solution, because causes the salt solutions to remain in the body longer than water and therefore, the body depots are filled up with a more lasting effect. In the sea water group I either only gave sugar solution or sugar solution mixed with hypertonic salt solution, and that is the reason why some individuals from that group had eliminated more salt than they had received, which was unusual, so that inducing small amount of salt could be undertaken here and regarded as useful. A large number of the experimental subjects, at the moment I cannot remember their number, discontinued the experiment, simply by

drinking water or milk. In the intravenous administration of a liquid, I sometimes administered some calcium.

Q For what purpose did you add the calcium?

A One knows from results of experiments that through administration of salt over an extended period calcium is eliminated from the blood and in order to prevent such a loss or salt or lowering of the salt content, I added some calcium.

Q Witness, what was the effect of these injections or the drinking of water?

A The effect was extremely ordinarily impressive. If, in the case of the intravenous injection, one injected about 150 to 200 cubic centimeters, the feeling of thirst stopped already, and the entire appearance was, after about one quart of liquid had been administered, changed strikingly. It is true that the thirsting person through his loss of water, looks bad, his eyes are sunken in. This and a certain lassitude and a fatigue, lassitude in the muscles, was strikingly ended with the injections. I know that only with the giving of sugar and other insulin shots I noticed such a quick effect.

Q Now I have to tell you that the witness Bauer, in the exhibit which was not given under oath, testified exhibit No. 138, that the interruption took place always only when the experimental subjects were already in agony. What do you have to say to that?

A The witness Bauer was perhaps three times at the most, for perhaps half an hour, at my station. He himself has said in his statement that the experiments lasted four to six days, at the time when he was there, there was at most only 500 cc of sea water in the experiment, and after this amount had been administered nobody is in agony after 6 days. That does not exist. I know the witness Bauer and I am convinced of nothing more than that he doesn't know at all what agony is, but a lay person of course, likes to throw about medical terms. What did occur in the experimental person was a so-called apathy, a certain



compliance, what is called sleepiness, but what one means by agony, death agony, one means the condition of somebody shortly before dying in his last moments, and now the witness Bauer said after the injection of the serum, as he expresses it, the experimental subject revived, all of them, so it is a considerable medical achievement if one can recall forty people from the last grasp.

Q The witness Bauer, who is a business man in a civilian profession, says further that he saw symptoms of heart weakness. What do you say about that?

A The witness Bauer developed the electro cardiograms which I took. He developed the films. I suppose that on that opportunity he also examined them like an expert. What occurred in the case of the experimental subjects was a slowing down of the pulse. This is called in German medical literature "Schonstellung", it is a protective position of the blood circulation. This is supposed to express that through the slowing up of the heart beat as in the case of any case of deficiency, as in the case of hunger a certain economic using up, that is a quieting down of the circulation results. This theory I believe is the correct one but not the one that Herr Bauer accepted.



Q. Now the same witness says that many of them get rabies and similar things?

A. There was no case of rabies, not a single one. The case of rabies has not been described in literature about sea distresses or later depressive conditions. In healthy persons psychiatric symptoms do not belong among the symptoms of thirst but there is a certain nervousness and excitableness as in any condition of deficiency. Those are all part of the thirsty person's reaction.

One single time it happened that one of the experimental subjects went to the male nurse and cried for water. I was in the adjoining room and I heard these loud voices so I came out and asked what was going on. I was afraid that in his nervous condition the person would perhaps continue to scream. I asked him to return to his bed and with the help of a linen bandage let him be fastened and asked for the termination of the experiment, which took place in a few moments. The experimental subject remained in bed absolutely quiet and he was told by me that the experiment would then be terminated. I said nothing more and he waited quietly until the injection was prepared. From this incident, which from a medical point of view, was quite insignificant, the case of madness was made out of that. In this case of madness, finally it has been said that I had the person tied to his bed as a punishment. Such an extraordinary statement shows, how one can distort facts which are quite insignificant and how they can be misinterpreted to have motives of ill will.

Q. Were there any other incidents which occurred during the experiments?

A. Otherwise I only experienced cramps in the muscles which lasted for a short period. They are called tetanoid

or tetanorhythmic attacks, which can be observed in any case of deficiency of water, which are conditioned by the drawing of water out of the muscles. In this case I immediately discontinued the experiment by means of an injection of calcium and immediately achieved that the cramps stopped and immediately achieved the restoration of a completely normal feeling. From that incident the famous crying attacks were developed and the so-called tetanoid attack, a relatively frequent happening. There are people who can bring it about on purpose if they breathe quickly. This attack can be controlled with certainty immediately with calcium. We experienced it quite frequently in our practice and I never saw any damaging effects from it. Now such an attack looks very perhaps as seen from the picture which I had made up in order to show how it looks.

DR. STEINBAUER: Your Honor, I would like to call the attention of the Tribunal to the picture from the famous text book, it is a photostat of the picture of the famous text of a tetanoid attack. I am only submitting the photograph, I give this picture the title "tetanoid picture" No. 17, that is exhibit No. 17. It is referred to in Document Book 2, under Document No. 35.

THE WITNESS: This manner of cramps shown in the picture, that shows how these crying attacks look.

MR. HARDY: Has Dr. Steinbauer as yet introduced Document No. 35?

DR. STEINBAUER: Yes.

THE PRESIDENT: That Document has not been introduced in evidence.

MR. HARDY: I am not aware that it has, Your Honor. This is currently is a supplement to Document No. 35; is that correct?

DR. STEINBAUER: Yes.

MR. HARDY: Do you at this time propose to introduce this? May I ask the defense counsel to explain just what Document No. 35 is. In this document book I have a copy of the picture but if it refers to the weight table, I do not have that.

DR. STEINBAUER: This is to explain to the Court in the form of a picture how such a tetanus cramp looks. It is unnecessary that an expert description of tetany be made, it is altogether unimportant in itself; it is important only because the witness for the prosecution emphasizes it.

MR. HARDY: Is it an extract of Exhibit 17, Your Honor?

DR. STEINBAUER: Yes.

THE PRESIDENT: Counsel do you now offer your Document No. 35 in evidence?

DR. STEINBAUER: Yes, Your Honor, It is only the picture to illustrate to the court how such a tetanus cramp looks.

MR. HARDY: I have it straightened out. The picture is the exhibit and not a supplement in the document book. I did not have a copy of the picture and I thought it was a supplement. I don't see the materiality of the document, but I won't object to it.

DR. STEINBAUER: May I continue, Your Honor?

THE PRESIDENT: You give this No. 17?

DR. STEINBAUER: Yes, your Honor, No. 17.

THE PRESIDENT: Counsel may proceed.

BY DR. STEINBAUER:

Q. Witness, what would have happened if such an incident had occurred when you were outside of the camp at your own quarters?

A. During the day I was practically all the time at this experimental station or in the adjoining laboratory. And, during the night there was a night service. There was always a medical non-com there who was on duty during the night. In the plan which I explained before it is shown that the medical students had their room next door to the experimental room. That is, they were available at any time when anything was needed. Certainly I could be reached by telephone from there. I had given strict orders that I must be called at any time if anything unusual should occur and I could be in the experimental room in a few minutes from my own quarters. Every day I myself paid my night visit about 11 O'clock. And, I believe that I saw to it that everything was taken care of for the night that could be taken care of in advance.

Q. Witness, the witness Eschhofenig tells us now that the experimental subjects were so thirsty that they even drank the water out of the pails that were used for cleaning.

A. I believe that the experimental subjects had so much opportunity as has been shown to obtain water by other means that they did not have to use the pails that were used for cleaning. Moreover they could drink out of the pails only at a moment when there happened to be nobody to supervise them or guard them and I don't believe in such cases they would have waited until the water was dirty and moreover that they drank out of such pails I think impossible because I had issued a strict prohibition that no water should be carried into the experimental



room. I do not believe that this ever happened either. If, however, it did happen it was a strict violation of my order. If I had seen it I would have held the person responsible.

Q. Tschofenig, who was far away at his x-ray station, not at the experimental station, continues to say that you withdrew large amounts of blood out of people that damaged them. What do you say about that?

A. The amount of blood which we needed for our chemical determinations amounted to about 10 cc per day. and they were not even taken every day. I do not believe that anyone of my experimental subjects had more than about 150 cubic cm. of blood taken out of them before and during the experimental period. If somebody gives blood he gives 500 to 600 cc of blood at one time. and I myself gave blood during this war at least five or six times and I know that even such a large amount is of no significance, much less can 10 cc per day have an influence on the health. We cannot talk here about large amounts of blood at all and if Tschofenig states that the taking of the blood was done in an unscientific manner I can only say that it was done almost exclusively by myself. Only in very few cases did one of the French medical students take the blood under my supervision. I myself had experience in clinics for about 15 years prior to that and I hope that during that time I reached the place that I could take blood tests in a scientific and correct manner.

Q. You are also supposed to have carried out liver punctures uninterruptedly.

A. These liver punctures have the following history. In the case of some experimental subjects as it became evident later on after the drinking of water there was a temporary enlarging of the liver. When Eppinger was there I showed this to him and Eppinger thereupon told me to puncture the liver in order to be able to exclude the possibility that through the addition of salt in the case of a different amount of water there were any changes in the liver. On his or-

der I carried out some liver punctures at that time. I believe there were about 8 or 10 and I did it by the method which was practiced for years at the clinic and which I knew very well. During my life I carried out about , let us say-about 100 liver punctures already. The method is absolutely not dangerous if it is carried out correctly and it is also absolutely painless.

Q . Now Teschofenig says further—"as it was the case in other experimental stations Beiglböck too transferred prisoners to the regular hospital in order to veil the figures of death cases." I ask you now, did you transfer experimental subjects during the experiments to the regular hospital?

A. Not a single one of my experimental subjects was transferred to the regular hospital during the experiment. - I have already told that during the preliminary period to the experiments one experimental subject fell ill with fever, that is in the preliminary part when the experiments weren't in process yet and that I transferred this person to the hospital. That was the only case which was transferred at all from my station from the beginning of the preliminary period. Teschofenig does not seem to know what thirst means. Otherwise he would know that it would be absolutely senseless to transfer somebody who is thirsting to another hospital in order to veil the bad condition because while one is thirsting there are only two things to do, either you let them die from thirst or you administer liquid to him and then he recovers. And giving him liquid if such a condition had occurred at any time I would have given him liquid and I wouldn't have undertaken any long transports because that wouldn't have made any sense. But, not a single one was transferred and this one transfer at the beginning, that is the first elimination of people whom I did not keep at all in my station, during the preliminary examination-these persons were not my experimental subjects but they were sick prisoners whose illness I discovered whose treatment I initiated and who were never included in my

experiments. It happened in the interest of those prisoners that their illness was treated. Here again that was an action on my part which was necessary from a medical point of view and which had nothing to do at all with my experiments and which then was made the basis for such misinterpretation. And the witness Pillwein who during the whole time during the experiments was at my experimental station and whose testimony the Prosecutor read to Dr. Schaefer says in his statement before the Vienna Police, Exhibit No 140 of the Prosecution Exhibits says the following: "From other experimental stations I know from hear say that many cases of death occurred. However, one practices in the following manner. The patients were in a very weakened and damaged condition and were transferred to the regular hospital where they died after a short period of time. Details about this could give a former co-prisoner Stehr. From this formulation it is shown unequivocally that the witness is speaking about transfers to regular hospital which occurred in other stations. This formulation is so clear that it cannot be mixed up with my experimental station at all. When I concluded the experiments, I still retained the experimental subjects in my station so that the second group was also observed afterwards for at least 10 days the first experimental group for 16-17 days. Then I required of the chief physician of the hospital as well as the camp officer that these people would not be allowed to work for another 14 days and that they would receive additional food rations even though the majority of them had reached again their original weight and in part had even exceeded that. I was assured of this quite certainly and at that time I absolutely thought that this promise would be kept.

Q. Witness, otherwise you also did something on behalf of the prisoners, you already mentioned cigarettes, and now this, did you do anything else for the prisoners?

A. I tried whatever I could do. Of course, I was a foreigner, and an outsider after all and had no influence myself but among the



group there were some who had served in the Air Force, one of them had even received the iron cross decoration. I called the attention to these people expressly and asked that the reason for their being kept in detention should be reexamined. This, too, was promised at that time. On that occasion I found out or rather I was told or assured that those people were not kept in the concentration camp because they were SS-sies but because they were a-social or members of a-social families. I want to emphasize again that I had no opportunity to examine the files of these people and in that respect I had to rely upon what was being told there. Today here I do not want to characterize those experimental subjects as something possibly they were not. At that time, of course, I relied upon it that things were as I was told but now I have heard such things that now I could not guarantee if this was how the conditions actually were. Furthermore I have already mentioned that two of my experimental subjects had so-called escape insignia. After the conclusion of the experiments I went and said that they had reported to the experiments under conditions that this escape point would be taken away from them. Thereupon I was promised that the escape insignia would be removed and I now heard with pleasure that this actually happened. One of the prisoners requested that I do something that his hair be cut. I should have thought it ridiculous to mention the thing here if the witness Horn had not testified as to how difficult it was to get something like this accomplished. I succeeded in that too. Furthermore, in regard to the French medical students who were working for me I spoke on their behalf and I saw that they were removed from the labor companies and were employed in the hospital. For them, of course, that was a considerable alleviation first because it is more pleasant for a medical man to be able to work in his own profession, secondly because in the hospital they had quite different lodging, quite different food, and quite different work. I also tried in the case of two to get it through that their cases be re-



ruined but I was refused and that was pointed out to me that in cases of these medical students we were concerned with political prisoners and therefore examination of their files was without any hope. One has to consider that I as a member of the Luftwaffe was nothing but an outsider and was there as a guest who had nothing to say, no influence, who didn't know anything about concentration camps either. There was nothing in my power but the ability to make requests that my experimental subjects and the prisoners who were working for me be given those alleviations which they had asked for and I saw to it that this was done. That was all that I was able to do. I could not do more and it was not in my power to do any more.

COURT I

Q. In the Pillwein affidavit, exhibit 140, an incident is mentioned that you gave up a Yugoslavia medical student from your medical station; what was that about?

A. It is true that this Yugoslavia medical student had volunteered to work with me. I asked him whether he was acquainted with laboratory methods and blood examinations and when he said, yes, I took him on. I discovered that he was not capable of doing these things; therefore, I assigned him to the night service, and after the first time, I discovered that he had slept all night. In every hospital a nurse who sleeps at night, ignoring the people who are entrusted to his care, is called to account, but I only said to him that was impossible; if he was assigned to night service he had to stay awake. Two days later I came to the station at midnight to inquire, to see how the experimental subjects were getting along. He was on night duty again, and was somewhere in the hospital, but he was not where he was supposed to be; thereupon, I asked that he be exchanged for another medical student. This Yugoslavian medical student was not punished. He was assigned to another part of the hospital I do not believe that I did anything inhumane there.

Q. Professor, the nurse Max, was mentioned by the Prosecution. What do you have to say about that?

A. One day during the preliminary period of the experiments when the people were given the Luftwaffe rations, I came to the station one day, and I was told by the Gypsies that they had had a discussion with this male nurse. They complained, they said, that he did not give them the food they were supposed to get. The nurse

COURT I

Max, said that the Gypsies had beaten him, and the Gypsies said that he was always brutal with them. I investigated the matter and found out that this nurse had given part of the food to someone else, not to the experimental subjects. I demanded that he be exchanged. The witness Viehweg testified he was sent back to his former station. He was not punished in any way; and he was replaced, from that time on there were no longer riots any more.

Even at the time when there really was hunger. This first incident occurred when the experimental subjects were supposed to be getting 4000 calories a day.

Q. Witness, now I am coming to the most serious charge which the Prosecution has raised against you; that is, that in these experiments you had death cases. I should like to refer you to the testimony of August Viehweg. I should like to remind the Tribunal of document 24, from document book V of the defendant Ruff, which was submitted by my colleague, Dr. Sauter. This file shows that this Prosecution witness, aside from the five years penitentiary sentence, which he admitted, had a number of sentences, five sentences before the one which he mentioned. The witness said on the 11th of December 1946: "Two or three times I believe I can remember that the stretcher was carried out with a cloth over it, and they were taken to the mortuary." He was examined by Mr. Hardy on page 472 of the record, where he repeatedly said that there were two or three cases which were taken to the Mortuary, and when I questioned him, on page 499 of the German record, he said: "I can remember from my own observation having seen that people were taken down the road from the station to the mortuary."

COURT I

"DR. STEINBAUER: Then, you were not positively told that these people had died?

"VIEHWEG: I cannot say that under oath. I do not know I don't remember exactly."

I want to remind you of your oath, witness. I ask you, did you have any death cases or do you believe that such were consequences of your experiments?

A. Not a single person died in these experiments. No one was harmed. All the experimental subjects were released by me in a satisfactory condition and with a weight corresponding to their original weight. I was not able to have any body covered with a cloth and taken to the mortuary because there were no bodies. Several times, however, I sent experimental subjects over to the X-ray room, and it is true that I had them covered because they had to pass water, and I didn't want these thirsty people to see water all the time. That is the explanation of these "dead persons". Moreover, some of the experimental subjects were carried out into the court yard so we could photograph them. The testimony of the witness Viehweg is definitely a mistake if it is not anything else.



Court 1

Q. Do you remember the witness Viehner?

A. I remember having seen him. I noticed him because all the nurses working in the hospital when I had seen him, and my medical students and so forth, had a red triangle. I noticed that there was one nurse there with a green triangle. I inquired about that green triangle and I was told that that was for criminals. I was told that this man had quite a past.

Q. Did you ever see Professor Eppinger in Dachau during the experiments?

A. Yes, Eppinger was there once with Boris and looked at the experiments. He was there in the experimental room or the laboratory for about an hour.

Q. But, the witness, Tschafnig, says that Eppinger was in Dachau earlier and took care of setting up the experimental station?

A. According to what has been said in the course of the presentation of evidence as to the sea water experiments, it is quite impossible--Eppinger had nothing to do with the whole preliminaries, except that he was present at the discussion on the 25th of May. Before my arrival in Dachau no experimental station was set up, or even talked about. This testimony of Tschafnig, that Eppinger arranged an experimental station there is incorrect. His statement that Eppinger took advantage of the opportunity to convert prisoners to National Socialism, for everyone who knew Eppinger and his attitude is ridiculous and incredible. But this testimony had a part in harming Eppinger in his position in Vienna, and it probably had a considerable part in Eppinger's unfortunate decision to commit suicide. Only the final insult, in the last years of his life, Eppinger suffered so much misfortune, and was so often in despair that it required only a small insult to take that final step. Eppinger lost his only son in the war; his grandchild was killed by a bomb; his son-in-law was sent to Russia for service; Eppinger lost his home in an air raid; Eppinger was driven out of his clinic

9 June-A-GJ-17-2a-Board-(Volk-von Schoen)-

Court 1

Eysinger was refused permission to publish his scientific life's work. and, for a man who had been honored throughout the world before these things brought him to despair, at the end of such a rich life. Not in every suicide is there a confession of guilt; it can be the result of hopeless despair.

A Eppinger had no more part in these experiments than that he was asked for his scientific opinion; that he gave his opinion; that he was asked to observe these experiments and to check with whether they were being performed correctly; that was all, and not one grain more.

Q Witness, I brought that up only because Mr. Hardy mentioned Eppinger and his suicide in a different connection. Let's go back to the experiments. I should like to ask you about the food after the end of the experiments?

A After the experiment was finished, the subject, for one or two days, got a very light diet. That was of course necessary because some of them had been fasting; because it is a mistake to give him a heavy diet immediately when a person has been fasting. They were given milk for one day and light foods for one or two days; that was not chicanery, that was a medical measure. After that they were given the rations of the flying personnel as they had been given before the experiment. When the second group was finished I had temporary difficulties with the food. There were about fifteen men. This was because the airfield from which I got the food had been bombed and the supplies had been burned out. I went to the kitchen of the camp, therefore, and requested food of the same number of calories as the flying personnel got. I had difficulties for one or two days until the supply from the Luftwaffe was re-established and this arrangement for high calorie food from the prisoners' kitchen for two days brought me into temporary difficulties with the SS. The prisoners did not get less; they really got more food. If I had given them the regular camp food I would not have had any further difficulties because the camp kitchen would have been obliged to supply this food.

Q Witness, at the end did you ascertain that all the experimental subjects were returned in good health?

A Before releasing the experimental subjects I performed a very careful examination of them. That was a matter of course. I con-

anined them clinically; I made X-rays; I examined the electro-cardiogram; I repeated the blood analysis; the chemical blood analysis was made at the end and in none of the cases was there anything wrong. I did not demand that they be given special care because they were sick but because I wanted them to have some time to recuperate and the affidavit will show I dictated these findings to the witness which showed that they were normal.

Q Do you consider it possible that complications came up later?

A I believe I have repeatedly emphasized my point of view that after a thirst experiment is interrupted the condition of thirst has come to an end once and for all. If one administers water everything is all right again. In all the literature on distress at sea available to me not a single case is described when there was any later complication because of thirst. The only cases of later complication are complications resulting from cold, that is, pneumonia or bronchitis and even these are very rare. I know from the English report that in about three hundred cases of distress at sea and rescue there were six or seven colds, catarrhs, and only one case of pneumonia. Now, my experimental subjects did not suffer cold; from thirst alone they could not have complications and as I said the sea water was examined bacteriologically and was found pure. It was impossible for them to have any intestinal diseases as a result, especially since we ourselves also drank this water and didn't notice any after effects because the incubation period of all such diarrhoea diseases is so short that the diarrhoea must have occurred while the persons were still under my observations.

Q Witness, I should like to open another chapter now. How much inside view do you have now to live in a concentration camp?

A Practically none; I was only admitted to our experimental room and laboratory; once I was in the pharmacy of the hospital in order to borrow equipment for the laboratory and several times I was in the



kitchen to see to the preparation of food. These are the rooms which I saw during my stay in Dachau.

Q Could you come and go when and where you wanted in the camp?

A In the first two or three weeks on our way from the entrance to the camp on our way to the hospital room we were accompanied by an SS escort. Later because we often had to wait until a guard had to go with us - waited for fifteen minutes or longer at the gate, I asked that this be given up. The Adjutant of the Camp Commandant gave me and my associates permission to go those three hundred meters without a guard but I had to promise not to enter any other rooms in the camp except those assigned to us. I kept this promise and all my associates also had to make the same promise. Besides the guards and guard towers could watch us all the time from this way and it would have been very difficult for us to go to any forbidden regions.

Q Then you could not receive visitors without the permission of the Camp Administration?

A No.

Q In this connection, your Honor, I should like to refer to the question of Judge Sobring to the witness Horn, page 5342, in the German record where the witness describes how difficult it is even for a high Wehrmacht officer to get to the camp and move freely there. Witness, did you yourself live and eat in the camp or outside?

A The Camp Dachau consisted of three camps really, one was SS camp, one was the camp where the SS men of the concentration camp lived, and the third was the concentration camp itself. In the SS camp there was a hospital. In this we four doctors of the Luftwaffe were given a room and we lived there. That was outside the camp. We took our meals in restaurants and had practically no contact therefore.

Q Were you subordinated to the SS in any capacity?

A We had been strictly obligated to conform to all orders of the SS and SS guards while we were in the camp. Otherwise we were

an agency of our own and quite independent and for the experiments themselves the SS had no right of disposition and never interfered.

Q Witness, did you come into any other experimental stations during those experiments?

A No, I have already said, apart from the kitchen and the pharmacy, I did not enter any other room, nor any other experimental station. I did not even know the existence of some of them.

Q Now, what was the result of your experiments?

A The following results more or less were ascertained which I believe were not without importance. First of all to show that the small amounts of sea water are better than complete lack of water. This is shown because the loss of weight was much slower and loss of water much less; that the thickening of the blood was less; that the loss of nitrogen was less and that the non-protein nitrogen in the blood did not increase while in those without water it did increase. It was shown that a larger amount of sea water had no advantage over pure thirst but under some circumstances even had disadvantages. It was shown that the concentration power of the kidneys had to be taken to be much higher than hitherto believed and about 2.5 per cent could be achieved by almost anyone, with some even 3 per cent or more.

It was shown that this concentrating power of the kidney was not considerably influenced by vitamins. It was shown that sea water in limited doses does not cause diarrhea. It was shown that the subjective symptoms, the feeling of thirst after salt water, is about the same as in complete thirst, that objectively in small amounts of liquid even salty liquid is better.

It was shown that even small amounts of fresh water taken in between have variable effects. It was shown that the Schaefer drug supplies quite usable drinking water and that the Berke method is useless. It was shown that in the blood an increase of salt is caused by drinking sea water and a slight loss of calcium and that it is therefore advisable to introduce calcium if a person is drinking sea water for a considerable period.

It was shown that in the condition of hunger and thirst there is a relatively high loss of table salt and that, therefore, it is certainly expedient for a person who has thirsted for a considerable period of time to be given salt water that is a physiological solution of table salt.

It was shown that after the experiment -- that is, after a long period of thirst -- there is a quick water retention and that the only danger from thirst and hypertonic liquid is the loss of water by the body. It was shown that the introduction of liquid leads to a very quick recovery.

I know that these experiments have not brought out as much in the way of results as would have been the case if the experimental subjects had cooperated completely, especially since most of the experiments were interfered with by the persons drinking fresh water and the concentration power of the kidney was subjected to great variations. A strictly scientific evaluation is possible only in a limited extent but for practical decisions they were sufficient that what was found in principle agrees with what was later discovered by English and American workers, that small amounts of sea water are better than complete lack of water.

Now, through the discovery of Professor Ivy and Dr. Schaefer, we are able to make sea water drinkable. It might still be that with someone who is in distress at sea without having this drug with him and the knowledge that with small doses of sea water he can improve his lot, this knowledge is not useless. If the extension of life, according to the theoretical calculations, is now possible -- according to findings it might be only three or four days over complete thirst -- still that might be decisive in practice.

Q Now, witness, after completing your experiments did you report on them to your superior authorities?

A Yes, in October 1944 I sent in a report.

Q Then I shall refer to the Schaefer document book 2, documents 14 and 19, the testimony of Huhnner and Johowsky, so that I will not have to submit affidavits of my own. Witness, why did you not publish the results of your experiments.

A I have already given the reasons why exact scientific evaluations was possible only to a limited extent. Personally, I had no interest in it because I had no scientific benefits to reap from these experiments. I refrained from doing so, not because I thought I had anything to keep secret.

Q Witness, are you even today of the opinion that, under the orders which were given to you, you carried out these experiments unobjectionably from the medical and scientific point of view?

A I have had almost a year and a half now to examine my conscience and I believe that I can answer your question in the affirmative. I carried them out just as I would have done in any hospital or clinic, if I had to perform them at all. I never considered my experimental subjects a substitute for experimental animals and it is not true that I lacked sympathy with them. I know exactly how difficult it is to suffer thirst. It is not that I didn't care that I had to ask them to do this, to suffer thirst during the days of the experiment, but I was not able to spare them this after they had volunteered for the experiment.



That I recognized the services of the experimental subjects at the end I believe I can say, not only in words but also by doing for them what I could. That I enjoyed these sufferings of my victims — I was incapable of such a horrible thought. From the beginning I had serious misgivings and inner rejection of experiments on prisoners.

If I ignored my misgivings, I could still put up with the matter for several reasons: First of all, I was never of the opinion that I was doing anything illegal. If my superiors, the highest security authorities of the Reich, gave me such an assignment, then, in 1944 I had to believe that this could not be anything illegal. In 1944 I could not know that a few years later these laws would no longer be valid.

I overcame my misgivings because I was finally convinced that my experimental subjects had volunteered for this certainly unpleasant experiment. I overcame them, furthermore, because I knew that distress of the time made such a possibility advisable but especially because from the medical point of view I considered that the rescue problem to be solved was the important thing and because I thought that if a person was to take on himself the sacrifice of going without food and drink for several days it will be in the interests of hundreds of others who would be in distress later, in war and peace, and they would benefit. It was not the negative side which motivated me, but because of the positive goal I took the negative upon myself; and, under a military order and under a great personal, spiritual burden, I carried out this order; but I believe it would be illegal and hard to understand psychologically, if I did not want to perform experiments on prisoners from the beginning, I should go and mistreat the experimental subjects.

During my experiments I did not spare my own working capacity or that of my associates. I tried to carry out the experiments in such a way as to avoid any bodily harm and I am finally convinced, even today,

that I did not cause any harm. I cannot reproach myself for having omitted any medical precautions which could be required. I have a quite clear conscience in this respect. I carried the experiment out with the seriousness and the scientific thoroughness which I had learned in my many years of university training, and at the moment when I stood behind this barbed wire for the first time I did not change basically and leave my former attitude and my former character outside; and that we really tried to do our best in these experiments Professor Ivy admitted later when he looked at the records of my experiments. He said, "You have made great efforts but you selected the wrong experimental subjects." It was not I who selected them. I was convinced from the beginning that it was an unfortunate choice but I was not capable, in spite of all the attempts which I made, to change this fact.

Q: Your Honors, the next document which I should like to submit is Exhibit No. 18, as Document No. 11, from Document Book I, page 25. This is an original letter from the defendant to his mother, written in Dachau on the 12 September, 1944. I shall read merely the first paragraph:

"Dearest Mother:

Many thanks for your dear letter. I am sorry that lately I have been able to give you only occasional brief signs of life, as the mad rush to which we are subjected here did not permit of more. By and by also this job is coming to an end and I am not sorry about it. The results of my work are only fair. I had not planned it so but only carried out orders. I hope that I shall soon be able to return to my former office where I enjoyed the work much more."

MR. HARDY: This is document No. 11, Your Honors. I do not have that in my index.

THE PRESIDENT: It is not included in our index either.

MR. HARDY: Yes it is on page 25. I have found it.

THE PRESIDENT: It is in the document book on page 25.

BY DR. STEINBAUER:

Q: I want to ask you something. You said your work was only fair. What do you mean by that?

A: I had already evaluated most of the experiments at that time. We had seen that about two-thirds of the work had been in vain because it was quite clear that these people had some water and all of the work was in vain and what I had originally thought about the retention of salt was a mistake, that is, the results were relatively slight, in no proportion to the amount of work itself.

Q: The next document which I submit will be Exhibit No. 19, from Document Book I, Document 10, page 23. It is also a letter from the defendant to his parents in Law from Dachau, 12 August 1944. I offer this letter on the question of the order and the voluntary approval. It reads: "Dear Mr. and Pa;

After a very considerable delay I received your dear letter and the

cigarettes for which I thank you very much. This delay was due to my stupid transfer here, they sent on my mail only after I had finally 'settled down' and could give my unit my new address."

I shall skip the rest of the paragraph and read from the bottom of the page.

"Since 1 July I have been roaming about in the district and have wasted exactly one month at this time. Now after great toil and trouble and after enough vexation to last for more than a year I have set up shop there and can at last conduct the examinations which an unkind fate has sent me here. My feelings are those of Pontius only it mattered less to him than to me.

"I shall probably hang around here until the beginning of September. Then, unless a bomb drops shortly before completion, ruining all my work and efforts, I hope to have finished and to say goodbye to this generally unpleasant place. Anyhow, the moment I board the train at Dachau railway station will count as one of the nicest and never to be forgotten of my life."

And then the last sentence:

"However, grumbling does not help."

Now I offer the Mission Document, which I handed to the Tribunal today, the chart, it is in the second book, No. 31, page 113 to 116.

THE PRESIDENT: Has that not already been admitted as defendant Heiglboeck exhibit 12?

DR. STEINBAUER: Yes, that is the same document. Before I was just offering the chart and now I want to offer the document to make the Tribunal acquainted with the whole plan of the experiments. It is on page 113:

"I, the undersigned —"

THE PRESIDENT: Counsel, I see no reason why they cannot be both admitted as Heiglboeck Exhibit No. 12, and treated as one document.

DR. STEINBAUER: Yes, I merely want to read it now. I did not read it before.



THE PRESIDENT: I understood you to say you were offering the document. Just proceed with reading it.

DR. STAINBAUER: I am merely reading it now:

"I, the undersigned, Walter Mission, have been cautioned that I am liable to punishment if I make a false affidavit."

I shall leave out the formal parts:

"I wish to state the following:

"I worked with Dr. Biglboeck from 25 July until about 20 September 1944. I had been ordered there. On commencing my duties I discovered the salt water experiments were concerned. I myself was not always present as I frequently had to travel as a courier.

"To the best of my belief the plan of the prisoners quarters at the Dachau camp is correct. I have signed it with my name.

"The experiments were made on about 40 persons. The color of the chevrons worn by these was black, as far as I can recall.

"Whether these experimental subjects had been sentenced or whether they had volunteered, I do not know. The prisoners were subjected to a thorough examination before the experiments were started. They were quartered in a large room with some single beds and some tiered bunks.

"Before beginning the experiment the experimental subjects were given the same food as was lined to the flying personnel of the Luftwaffe, that is to say, a very nutritious diet of sardines, cheese, butter, milk, meat, etc.

"During the experiment 4 persons assigned to the thirst group received no food whatsoever. The others received sub-emergency rations, with chocolate, chocolate-cake, etc.

"The experiments were controlled by a night shift consisting of medical non-coms and prisoners who were medical students. These medical students lived in a small room adjoining the ward room. I took part in this night shift on three occasions. We were ordered to call Dr. Biglboeck in the event of any special developments.

"In addition, doctors who were prisoners were called upon to act as specialists, who were treated by Dr. Biglboeck as fully qualified experts.

"I remember two cases where infusions were made because the experimental subjects had had a peripheral collapse. After the infusion these people recovered immediately. I know also that the experimental subjects became extremely apathetic and somnolent. Nothing is known to me of brain-stem attacks, although I do know that in the two cases quoted the persons whispered. I never observed any cases of hysteria.

"I have no knowledge of any deaths occurring during these experiments. I would have known had there been any such case.

"The experiments lasted 4 to 6 days as far as I can recall. The experimental period was longer for those experimental subjects who received water treated by the Schaefer method and was finally broken off without any special reason. The persons treated by the Schaefer method suffered no complaints, as far as I know. No diarrhea occurred during the experiments to my knowledge. In the beginning stool specimens were sent to a medical institute in Vienna, later this was stopped, possibly because it was unnecessary.

"During the experiments blood was taken from the experimental subjects in the morning. I assume that it was 10 cubic centimeters. I myself forwarded only the blood which had passed through the centrifuge and which was small in volume.

"At the conclusion of the experiment the final report was dictated to me, and from this I know that none of the experimental subjects died. The report stated that no lasting ill effects to health remained.

"Dr. Beiglböck treated the prisoners as humanly as ordinary patients. He was rough to them—

The German word is "grob", and a better translation would be rude.

"He was rude to them only when they obtained drinking water contrary to orders. I know definitely that none of the experimental subjects were turned over to the SS for punishment because of any offenses.

"I am aware that Dr. Beiglböck used his influence on behalf of two prisoner medical students, to ease their conditions.

"The experimental room was located within the camp, but was otherwise

not connected with the rest of the camp. No SS doctors took part in the treatment. At first we were only allowed to enter the camp accompanied by an SS official, later we were allowed to enter unaccompanied but were forbidden to go into any part of the camp outside of our rooms. To my knowledge Dr. Edigboeck had no connection with the SS doctors, he only dealt with the junior physician (Unterarzt) of the troop-training camp of the Waffen SS from whom he obtained his medicines.

"The doctors taking part in the experiments ate only at first for about a week at the SS canteen and later at a restaurant. The concentration camp made an orderly and organized impression, we noticed nothing of cruelties which later became known.

"I know that on one occasion difficulties arose in the food supply which possibly were connected with an air raid. I was then sent to Frankfurt with the urgent order to obtain some emergency rations there.

"The signature of Walter Hasenauer, before me, Attorney at Law, Dr. Robert Borytius, representative of the defendant, Karl Brandt, as representative of the Attorney at Law, Steinbauer, representative of the defendant, Professor Edigboeck, is hereby certified."

The next document which I should like to offer is the affidavit of Dr. Karl Lasse. This is document Book I, page 32, and will be Exhibit No. 20. It is a very long document. I shall, therefore, read merely excerpts from it, containing the most important points.

THE PRESIDENT: Counsel it is now time for the Tribunal to recess. You may read such portions of the document as you desire in the morning.

The Tribunal will now be in recess until nine-thirty o'clock in the morning.

THE CLERK: The Tribunal will be in recess until 0930 o'clock in the morning.

(The Tribunal adjourned until 0930 hours 10 June 1947)

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# **OFFICIAL RECORD**

## **UNITED STATES MILITARY TRIBUNALS NURNBERG**

**CASE No. 1    TRIBUNAL I  
U.S. vs KARL BRANDT et al  
VOLUME    24**

**TRANSCRIPTS  
(English)**

**10-14 June 1947    pp. 8790-9232**

Official Transcript of the American Military  
Tribunal in the matter of the United States  
of America, against Karl Brandt, et al,  
Defendants, sitting at Nurnberg, Germany  
on 10 June 1947, 0930, Justice Reals presiding.

THE MARSHAL: Persons in the Courtroom will please find their seats.

The Honorable, the Judges of Military Tribunal I.

Military Tribunal I is now in session. God save the United States of  
America and this honorable Tribunal.

There will be order in the Courtroom.

THE PRESIDENT: Mr. Marshal, you ascertain if the Defendants are all  
present in Court.

THE MARSHAL: May it please Your Honor, all the Defendants are present  
in the Court.

THE PRESIDENT: The Secretary-General will note for the record the  
presence of all the Defendants in Court.

Counsel may proceed.

DR. WILHELM BEIGLBOECK - Resumes

DIRECT EXAMINATION (Continued)

DR. STEINBAUER (Counsel for the Defendant Beiglboeck): Your Honors,  
yesterday I started with Exhibit 20, the affidavit of Dr. Karl Theodor  
Lesse, one of the doctors involved in the investigations in the sea  
water experiments. It is in Document Book 1, Document 14, on page 33.  
The document includes 82 questions. In order to save time I shall  
read merely the most important points:

1.) What was Beiglboeck's attitude towards the set up?

A.) His opinion was that there was no necessity to carry out these  
experiments at Dachau, since they could have been carried out easier and  
better in any military or civilian hospital.

2.) Did an SS-officer also tell us in Dachau that application to  
participate in these experiments was voluntary, and that in exchange  
privileges were granted to the prisoners?

Q Did Dr. Beiglboeck speak up for the experimental subjects on this  
occasion and did he recommend the release of some of them?

A Yes, you remember that when replacements were needed after the

preliminary examinations some people from Dachau volunteered spontaneously, that one of them, a gypsy from Munich, former hotel-employee, who had an "escape point" even tried terribly hard to be admitted? Did Dr. B. succeed in getting special permission for the removal of the "escape point" at the end of the experiments?

A.) Dr. Flaetner said that the applications were voluntary. As far as I remember even release was promised in exchange. B. repeatedly spoke up for the prisoners. I can not say anything about the last question.

3.) Were there any deaths?

A.) No.

4.) Were all provisions made for careful medical attention for the experimental subjects and was such attention in fact given?

Was there a regular night-service in operation?

Who was on duty?

Was there an order to the effect that in special cases B. was to be called, even at night? Did B. go every night, mostly between 2300 and 2400 hours, to the experiment room to check the well-being of the experimental subjects? Was he also called twice in one night and did he then effect an interruption of the experiments?

A.) Yes. Night duties were taken care of by medical students. B. himself made a late inspection every night. He had to be kept informed. I can not say anything about the last question.

5.) Did he succeed in getting the medical students, who were assigned to him, transferred to the infirmary upon their own request at the end of the experiments?

A.) Yes.

6.) At the end of the experiments, was there a thorough post-experimental examination and what were its results?

A.) Yes. According to Seilbueck's reports no injury was found.

7.) Did B. at any time hand an experimental subject over to the SS for punishment or "softening up"?

A.) No.

9.) What was his attitude to the prisoners in general?

A.) Very humane and benevolent.

12.) What was the physical condition of those gypsies who were used for the experiments?

13.) Did B. reject immediately at the beginning those who look unfit?

A. to 12 and 13.) The experimental subjects were given a thorough internal examination by B. and several, who were not quite healthy, were rejected.

14.) Do you remember that then, after X-raying 2 cases were found among the rest with new but already decaying tubercular affections of the lungs? Were all the experimental subjects X-rayed?

A.) They were all X-rayed, I knew nothing about the results.

16.) Who, according to your observations, treated the inmates in the camp infirmary?

A.) Doctors who were inmates themselves.

21.) What was the attitude of the SS towards us?

A.) Nearly always arrogant and unfriendly.

25.) Were we told anything about Bascher's experiments? Could we go and look into Schillings ward?

A.) No. B.) Yes.

32.) Was everything always ready in the sick room or the adjoining room for an interruption of the experiment? What?

A.) Yes. Sterile fluids for injection. Heart and circulation drugs.

34.) Why was the Yugoslav medical student, originally detailed for night duty removed from the ward? What happened to him?

A.) He was unreliable, fell asleep. I don't know what happened to him.

35.) Was it at B.'s instigation that the other medical students were quartered during the night in the adjoining room (next to the experiment room)? For what purpose? Did it have incidental advantages for the students (inmates)?



A.) Yes. To be able to help more quickly. In this way they got better food.

35.) Do you remember Dr. B. telling you that he first tested the Berke system on himself?

A.) Yes.

41.) What was the effect of the intravenous injection of Fluid?

A) Beiglbosch reported an immediate quenching of the thirst and improvement of the condition.

44.) Did Beiglbosch inform the gipsies about the purpose, course and subjective symptoms at the beginning of the experiments, simultaneously assuring them that he would conduct the experiments in such a way as not to cause permanent injury?

Thereupon did they bind themselves also to carry out the experiments honestly?

A to a and b) Yes.

45.) Do you remember that B. appointed the oldest gipsy as a confidential man who had to report all wishes, requests and complaints, and who also had permanent orders from Beiglbosch to influence those who did not behave in a disciplined manner.

A) Yes.

46.) After the experiment were flying personnel rations given out?

A) Yes.

47.) Do you remember that there were sometimes difficulties in the supply of some? Of what kind and why?

Do you remember that while we were there this air-base was bombed and the food store was hit?

A) Yes, because it came from the Schleissheim airbase. A check sometimes showed deficits which had to be delivered afterwards.

50.) Was Beiglbosch supported in his experiments by the SS?

A) No.

51.) a) Were the experiments carried out in two groups, i.e. when one section of the experimental subjects was being experimented upon, were the others not yet or no longer included?

b) How were the groups divided?

c) Could the experimental subjects who were not being experimented upon go out and walk in the courtyard?

d) Was it always the same courtyard?

e) Could those, who were out walking talk through the windows to inmates in other barracks without supervision?

A) a) Yes.

b) approximately into equal numbers.

c) Yes.

d) Yes.

e) Presumably.

82.) Where was the one group given food and drink while the other was being experimented upon? Reason for this measure?

A) Always separately, to spare the others the sight.

84.) Were we in possession of an exact chemical and bacteriological analysis of the sea water which was used?

A) Yes.

85.) Were cigarettes distributed after completion of the experiments?

A) Yes.

Did we have difficulties in obtaining them?

A) No.

88.) Did Seiglboeck request:

a) that the experimental subjects should remain afterwards at least for a week in the hospital?

b) that they should be on light duty for sometime?

c) that they really receive the concessions promised to them.

d) that Seiglboeck be informed if any of them show any after-effects (Floetner).

A) Such requests were made and also granted.

73.) What was the shipwreck diet like?

How was it packed? Where did it come from? Who delivered it?

A) In the original cases packed by the producers. Contained biscuits, chocolate, dextrose, cigarettes, soda water.

74.) How much blood was taken daily?

A) It varied between 5 and 10 cc.

75.) Did you observe any fits of raving madness? What other nervous symptoms did you see?

A) No. S. reported a general exaggeration of the reflexes.

77.) Did high temperatures arise during the experiments? Do you consider it possible that cases of "fever delirium" occurred?

A) Beiglboeck never reported "fever delirium."

82.) Did we have a lot to do or could we arrange to have "free time"?

A) We had an extraordinarily large amount of work. We usually worked until late at night. This applied also to Beiglboeck. We came up against many technical difficulties.

DR. STEINBAUER: As the next exhibit, I submit the affidavit of Fritz Pillwein of the 5th of May 1947, Document Book II, Document 32, on page 117 to 124, and I assign exhibit No. 21 to it.

THE PRESIDENT: The last exhibit from which you read, what is the exhibit number from which you read in your document book I, the answer to the interrogatory.

DR. STEINBAUER: That was Exhibit 20, the Pillwein affidavit will be 21. I must read all of this document because the prosecution examined this witness too.

AFFIDAVIT

I, Fritz Pillwein, student, born 11 May 1919 in Vienna, Austria citizen, resident in Vienna - III, Baumgasse 51, herewith state in lieu of an oath that my following statement is truthful and that it was made to be submitted as evidence to Military Tribunal I at the Palace of Justice, Nuremberg, Germany. First of all I have been duly advised that I should render myself liable to punishment if I were to give a false affidavit.

As to the facts I state the following:

1) Question:

How and why did you come into the concentration camp?

Answer:

I took part in the Spanish civil war on the Republican side from 1937 to February 1939, was taken to a French camp and was transferred in 1941 by the German occupation forces to the concentration camp



Dachau, where I remained until the liberation by the Americans in April 1945.

2) Question:

How did you come to the sea-water experiments in the concentration camp?

Answer:

Since 1943 I was employed in the dispensary as male nurse, and in summer 1944 I received the order from the dispensary police Cape, to go to station 1/1 for the purpose of relieving there a male nurse called Max. This man had been employed as male nurse for about 8 days in the sea-water experiments. The gipsies had had a quarrel with him before the beginning of the actual experiments regarding the distribution of food and asserted that he had beaten them, which he denied. The Director of the experiments was Dr. Beiglböck who after being informed of the incident demanded the dismissal of Max and who also gave me the strict order to treat the gipsies decently, whereupon I answered that that went without saying.

3) What do you know about the experimental subjects?

Answer:

68 men were used for the experiments, and I recognize some of them among the pictures shown to me by the defense. These persons were in a good state of health when the experiment was started, because I saw myself that they all were examined thoroughly by Dr. Beiglböck for their suitability.

4) What do you know about the citizenship of the experimental subjects?

Answer:

I have stated to the Vienna State Police that the experimental subjects were of the most varied nationalities. After having been confronted with the list of names and the fact that these names also appear in the Register of Gypsies living in Germany, I can state the following:

The experimental subjects in most cases spoke their gypsy dialect. Many of them were obviously of Slavic origin. I did not see Identification papers, however, as this was quite impossible in a concentration camp and as I did not ask them anything pertaining thereto. I therefore cannot make any exact statement regarding the nationality of the individual gypsies.

DR. STEINBAUER: There must be a mistake in the document book, here; in my opinion, it should say "Citizenship".

THE PRESIDENT: I am asking the interpreters their idea concerning the translation of the word which is translated as "nationality" in the affidavit which Dr. Steinbauer translated as citizenship.

VON SCHOEN: Your Honor, we believe that "citizenship" would be a better translation.

THE PRESIDENT: I would ask counsel for the prosecution if he desires any further study or investigation as to the translation of this word.

MR. HARDY: Your Honor, I request that it be taken as stated by the interpreter without prejudice to the prosecution and with a right to bring the matter up later, if necessary.

THE PRESIDENT: Very well, counsel may proceed.

DR. SPENGLER: "I did not ask them, because the gypsies were very primitive people, and some of them did not even know their own birthdays. I knew that they were allowed to receive parcels from their relatives just like the other inmates of the concentration camp. Of course, during the experiments they did not receive any. It is true that two of these experimental subjects served in the Wehrmacht for two years. All the gypsies wore the black patch given to special persons. When not being used in an experiment they were in the court yard where they were also photographed.

"5) Were the inmates volunteers?

"Answer:

"I know for certain that two inmates volunteered because they were inmates of Dachau and German gypsies, who by participation in the experiment were released from the so-called punishment company. That the other inmates, too, were volunteers I conclude from the fact that Reiglboeck was very angry when he discovered that some of them had drunk water and that he reproached the gypsies for first volunteering for the experiments and then not obeying the instructions during the experiment. The gypsies came from other camps, some of them coming from Auschwitz; they arrived together in a transport from Buchenwald, where some Buchenwald inmates joined them, and they were then transported to Dachau. From the Dachau camp itself only 3 replacements were selected. I am of the opinion that there were no concentration camp "volunteers", even if they were induced by promises to volunteer for the experiment in order to improve somewhat their miserable lot. I, who had shared in the sufferings in the concentration camps for years, came to this conclusion, but it is quite possible, however, that Reiglboeck, who was not acquainted with concentration camp conditions, had the impression that they were genuine volunteers.

"6) How did Reiglboeck treat the inmates?

"Answer:

"Reiglboeck wanted the patients well, which was a striking contrast to the treatment which the inmates received from the SS. Reiglboeck only became very angry when the gypsies had lied to him regarding the drinking of water and when he found out about it from the blood test. He used his influence to have the patch removed from Traubmann and his friend, another German gypsy. He also saw to it that the French physicians were transferred from the laborers' barracks to the dispensary personnel. He also obtained for me permission to wear a military hair cut. To those persons who submitted gracefully to the experiments he promised cigarettes and distributed them, too.

"7) What was the accommodation like?

"Answer:

"It was my task to accommodate the people and, according to their state of health they slept in either single beds or double bunks.

"8) Where did Reiglboeck and the internec doctors reside?

"Answer:

"Reiglboeck slept away from the prison camp, and during most of the day he was present in the ward. The staff in charge of the prisoners had their own staff dormitory and the physicians slept in an anteroom attached to the sick room, so as to be on call if required.

"9) What sort of food did the experimental subjects receive?

"Answer:

"Under the male nurse Max they received the so-called Luftwaffe food before the experiment. During the first four days of the experiment they received sea-rescue emergency rations and then nothing until the end of the experiment. Afterwards they received first skimmed milk, then slops, then a special diet and finally again normal camp food. Once when the food supply from the Luftwaffe was interrupted, there arose differences between the camp administration and Reiglboeck because the camp administration refused to supply this Luftwaffe food to the prisoners as had been promised at the expense of the SS camp.

"10) And now we come to the main question. Were there any cases of



death as a result of the experiments? I remind you of your oath.

\*Answer:

\*No. I should regard it as a betrayal of my comrades and should be ashamed of myself if I were not to answer this important question absolutely truthfully.

\*Good.

\*But I must remind you of the testimony of the witness Josef Pachofenig, document No. NO 911, Exhibit No. 139, and the testimony of witness August Vieweg, records, page 471. You yourself have looked at these documents. Pachofenig now says that saline injections etc led to unconsciousness and death. And Vieweg says: I have twice or three times seen coffins being carried in the direction of the death chamber.

\*Answer:

\*Both witnesses are personally well known to me and I believe I am justified in presuming that neither of them has maliciously given a false and contradictory testimony. In the camp there was a widely spread whispering campaign in which now and then the most absurd rumors were circulated. Neither Pachofenig nor Vieweg were directly involved in the experiments and therefore cannot state anything from their own observations. My Viennese compatriot Vorlicek, who was with me in the ward as assistant male nurse would also confirm my statement. With regard to Vieweg's testimony I would state the following: Through the main corridor of the Prison Hospital, past the door of our experimental ward 1/1, the dead were carried to the death chamber from all the blocks in the rear of the Prison Hospital. They were on stretchers, covered with a sheet or balmat (see sketch). Vieweg must have erroneously presumed that the dead were from our ward.

\*11) Did Weiglboeck hand over gypsies to the SS for liquidation for so-called brawling?

\*Answer:

\*No.

"12) Were gypsies brought to the regular Prison Hospital to disguise the fact that deaths occurred?"

"Answer:

"One gypsy was brought to the general sick bay in block III, room 2, where a comrade of mine, by the name of Franz York, was employed as male nurse. I am sure he would have told me if this gypsy had died.

"13) Was there any connection between the experiments with sea water and the experiments of Dr. Rescher or the malaria experiments made by Dr. Schilling?"

"Answer:

"I have never seen Rescher nor Schilling in our ward block 1/1. Otherwise I can say nothing about it.

"14) Did you have any incidents such as attacks of raving madness or hunger riots, etc?"

"Answer:

"There were no hunger riots or attacks or raving madness. I remember one incident when somebody had a screaming fit; he was bound with straps or sheets to the bed and was thereafter withdrawn from the experiment. I know nothing about tying them with straps as punishment. The people suffered greatly from thirst as well as from hunger and tried all kinds of ways to obtain water especially. My comrades and I turned a blind eye at such times.

"15) Who made the blood tests?"

This translation is not correct. It is, "Who took the blood samples?" That would be a better translation.

THE PRESIDENT: I would ask the opinion of the interpreters as to the translation.

THE INTERPRETER: Yes, your Honor, "who took the blood samples from the patients" would be the correct translation.

THE PRESIDENT: Does counsel for prosecution have anything to suggest to this translation?

MR. HADDY: I have no objection to it, your Honor. I can't see the difference either between this one and the other one.

THE PRESIDENT: Proceed, counsel.

\*Answer:

"In most cases Feiglboeck himself or a French internec doctor under his supervision.

\*16) What do you know about the duration of the tests?

\*Answer:

"As to the exact time of the individual groups I have forgotten the actual details. However, as far as I remember, the longest was 12 days.

\*17) What do you know about the loss in weight?

\*Answer:

"As a male nurse I had to supervise the daily weighing and I know that the patients lost up to one kilogram daily. I would like to mention here in general that I can no longer remember exact details of kilograms and decagrams. The notes shown to me are those made by the internec doctors. I made the temperature curves on instructions from Prof. Feiglboeck. One of the medical orderlies wrote the history of the illness. I am, of course, no doctor and cannot judge the accuracy of the figures mentioned in these books.

\*18) How were the experiments concluded?

\*Answer:

"They were stopped either by sodium chloride injections or by giving water, milk, mashed food, etc. as already mentioned above the feeling of thirst soon disappeared.

\*19) What happened to the experimental subjects after the end of the sea water experiments?

\*Answer:

"At the end of the experiment all the experimental subjects were still present and after a few days or more for recovery, were placed at the disposal of the labor pool. Feiglboeck asked for several

concessions, but I don't know whether they were made, because shortly after the conclusion of the sea water experiments I was posted from Dachau to an branch detail, Fischen/Allgäu."

Your Honor, I should now like to call your attention to the sketch attached to this affidavit. I have had an English translation prepared by the General Secretary's office so that you will be able to follow. If you will be kind enough to take this sketch you will find at the bottom a broad camp road, then at the right the entrance to the hospital, and then in the middle the main corridor of the hospital, and perpendicularly the block street. The third square in the middle is the experimental station. You see "wash room", "toilet", "sea water experimental station", "medical students room", and mess hall. Next to that there is the outer courtyard of the block street. Now, if I go further to the right you will see the name "Vieweg". That is the point where the witness Vieweg was. It says there "Malaria Station", it is certain that Gilling must have been there because he said he worked for Schilling in the malaria station. Now, you will be interested in knowing where the second witness Tachofenig was. He was way in back in the last category. There is one small subdivision and that says "X-ray station". That is where the witness Tachofenig was stationed who took all the x-ray pictures for the whole hospital. It is impossible for Tachofenig to see from there what happened in the sea water experimental station.



Now, let's follow the path taken by the corpses that Mr. Vieweg saw. Behind the barracks shown here, there are many other barracks. Now, if you follow the corridor of the hospital and the black road, you will find, at the top, TK. That is the morgue. That was the hospital morgue. Then, moving on to a door. Here there is written "door express". I asked him what he meant by that. He said that was a joke in the camp. There was no railroad in the camp of Dachau, of course, but the prisoners themselves had to remove the bodies from the morgue and take them to the crematorium in a hand cart. They were taken past the sea water station, through the black road, and they were covered. Those are the corpses that Mr. Vieweg saw.

Now, I shall submit an affidavit from Document Book I. Document #15 on page 48. This document will be Exhibit #22. This affidavit is by a Catholic prior of a big cloister in Austria from the same district as Beiglboeck. I shall not read all of it, only two paragraphs.

MR. HARTY: May it please the Tribunal. May I inquire of counsel whether or not he intends to continue his direct examination of the defendant Beiglboeck this morning, or whether he is going to read his affidavits now. It seems to me that he could continue his direct examination and introduce his affidavits after the time that Beiglboeck has left the stand.

THE PRESIDENT: It would seem, counsel, that it might be a better procedure to finish the direct examination of the witness and then introduce the documents unless you desire to question the witness concerning these documents. I understood that your direct examination of the defendant Beiglboeck was almost concluded. You stated that you expected to conclude it last evening.

DR. STEINHAUER: Yes, this is the last document. Only the documents where there were possibilities of question I wanted to read while the witness was on the stand. Then there are some other documents I shall read later.

THE PRESIDENT: Proceed, counsel.

BY DR. STEINHAUER:

Q I shall read from this document of the prior only two paragraphs. On page 50, at the top:

"He remarked that, if he had to carry out such work, he would prefer to do so in his hospital at Flaskau."

That is a term we haven't heard yet and I wanted to ask the witness why it says Flaskau here instead of Dachau. That seems to be a mistake. Witness. One sentence will be enough, witness.

A I believe that is a confusion. I visited him twice - once from Flaskau and once while I was in Vienna during this job, and apparently he confused the two places because he didn't keep those two visits entirely separate.

Q And what was Flaskau? Only in order to clear the location --

A Flaskau is a Russian town where I was in the hospital while I was in Russia.

Q Thank you.

I shall continue:

"Since he added: 'If I do have to conduct these experiments I can't help it, because I am an officer' - I gathered that he was absolutely opposed to these experiments and that he entertained the idea of refusing his cooperation, if possible, but that he had inner doubts as to the possibility of such a refusal being successful.

"According to his whole behavior, he obviously was under strong pressure at that time."

And the last paragraph on the bottom of this page:

"Significant for our relations and for the trust I placed in Professor Dr. Beiglboeck is the fact that upon receipt of his note stating that he was in Dachau, I asked him to look after a member of our convent, Father Richard Wolf, who was held as a prisoner there.

"I naturally would never have done this if I had not placed full reliance in Dr. Beiglboeck's attitude.

"In reply, I received a letter from a Luftwaffe hospital.

From this hospital it appeared that he had left Dachau. In this letter he emphasized how happy he was to have got away from Dachau and to be back at his former medical work."

And now I am finished with my documents.

Your Honors, in the beginning of my case I said that I wanted to build my case up like a cable car. There would be a leading cable and a safety cable and the safety cable would be the scientific basis. I don't believe that I shall have to use this. I don't want to argue now, I just want to call your attention to the following circumstances. The prosecution has submitted documents by Tscholonic, whom I have characterized, and Viorug, whom I have characterized, and a Mr. Bauer, whom I shall speak of later. It is noteworthy that the prosecution, who are such advocates of humanity, did not do the most natural thing, that is, to bring the experimental subjects, the victims, as witnesses. When I came to my office today I was surrounded by my colleagues and secretaries and I was told that at eight and eleven last night, on the radio, there was an appeal to all victims of the sea water experiments to report and they were promised that they would be given quarters and good food. I was very happy because I saw that the examination of the defendant as a witness was so effective that the prosecution was obliged to send out an SCS. I now make application, your Honors, for permission to call a witness, before the cross examination begins, who was one of these experimental subjects. This is Mr. Matthach, whom I announced as a witness on Saturday, according to the rules. As defense counsel, it is my duty to say to it that this witness appears before you without prejudice and makes his statements here. Otherwise, I would have submitted an affidavit, but I thought that the Tribunal would like to see this witness and that Mr. Hardy would certainly like to have an opportunity to cross examine this man. Therefore, I ask for permission to call this witness now, so that he can be quite unprejudiced. I can't give him anything to eat. I have no food cards. I must send him back. He is a poor Gypsy and I don't



want to keep him here too long. Therefore, I make application that the witness be called now.

MR. HARDY: Of course, I object to that application. I wish to start my cross examination of the defendant so that the continuity will not be interrupted and so that my preparation will not be interrupted. Furthermore, the remarks regarding the prosecution's requesting that these Gypsies report to Nurnberg is rather uncalled for inasmuch as the prosecution hasn't been in a position to send out such a call before inasmuch as the names of the Gypsies were never made available to us. I wish to cross examine the defendant Beiglboeck today. The prosecution strenuously objects to calling the witness prior to the cross examination of Beiglboeck.

THE PRESIDENT: I assume, Mr. Hardy, in view of your statement, I assume that the authorities will be prepared to furnish food for the witness until he is called.

MR. HARDY: If he is a defense witness, there are regulations set up for that. They have a Defense Information Center and Mr. Wartona takes care of those problems.

THE PRESIDENT: Defense counsel may refer the matter to the Defense Information Center which will take care of food and lodging of the witness until he is called.

MR. HARDY: Furthermore, Your Honor, I request that due notice be given to the prosecution as to the witness' name and all particulars concerning his background.

THE PRESIDENT: I understand from counsel for the defendant Beiglboeck that he had furnished that information. If he has not done so, it should be done immediately.

MR. HANDY: I have not received it, Your Honor, and I wouldn't be in a position to cross examine the witness until such time as I am able to study his case also.

DR. STEINBAUER: Your Honors, we are dealing with very primitive people. The prosecution has quite different resources than I



do. They could have issued an appeal some time ago, but did not do so. I tried to find these people. With great effort, I was unable to do so. I could not undertake any large scale actions, of course, and I am happy that I was able to find at least one which will complete the chain. You have heard the doctors, the nurses, the defendant, and there is only one thing missing now. I had no obligation to say anything. I could have been silent. I could have said "It's up to you to prove it." I submitted scientific material and gave it to the prosecution as my client said he had nothing to be afraid of. The prosecution has the temperature charts from which any doctor can see when the experiment began, when it was finished, what the course of the experiment was - the whole history is in the possession of the prosecution. I have not asked for it back. I wanted the prosecution to have an opportunity to study it. I know that Professor Ivy is here. He will certainly study the matter. We have nothing to be afraid of. That is my point of view.

MR. HADY: Your Honor, I don't understand this plea and I request a ruling as to whether or not I can cross examine the defendant Beigboeck now or whether I have to wait until after the witness is called.

THE PRESIDENT: The Tribunal will make that ruling in a moment. Defense counsel will immediately furnish to the prosecution the name of the witness and other information concerning this witness.

DR. STEINHAUER: Your Honors, it was done quite formally on Saturday through the General Secretary's office.

THE PRESIDENT: I understood counsel to make that statement. Counsel for the prosecution has stated he has not received it. That is, of course, not the fault of counsel for the defendant.

MR. HADY: Your Honors, it seems to me that this procedure would be most unusual. This witness is now on the stand undergoing direct examination.

THE PRESIDENT: Counsel, the direct examination - the examina-

tion of this witness will proceed, but we are discussing the status of this witness who will not be called until after the defendant Beiglboeck is exoused.

MR. SANDY: Thank you.

THE PRESIDENT: What is the name of the witness?

DR. STEINBAUER: The witness' name is.....

THE PRESIDENT (Interrupting): The Tribunal regards this witness whom you have named and mentioned as an important witness, but the Tribunal desires to see that the witness is fed and housed as it is done - the usual manner as other witnesses. If any question arises concerning that, and the Defense Information Center is not prepared to take care of the witness, if you will report it at once to the Tribunal, the Tribunal will take the witness under its own protective custody in order that he will be fed and housed until such time as he is called to the stand. I cannot imagine why the Defense Information Center, if you have requested them, has not seen that this witness has been fed and housed as other witnesses are.

5  
DR. STEINBAUER: May I announce the name of the witness? The name is Ernst Jettbach.

THE PRESIDENT: Will you please spell the name?

DR. STEINBAUER: E-r-n-s-t M-e-t-t-b-a-c-h. He lives in Eschensau 10, Fuerth, Bavaria. So that there is no confusion, I am on friendly terms with the Secretary General's office. I merely wanted to say that through this radio appeal, in view of the food situation in Germany, hundreds will report and say, "I will be given food and I will go to Muenberg and tell them something."

THE PRESIDENT: Counsel need not concern himself with that problem.

MR. HARDY: Your Honor, I assure you the prosecution isn't running a bread line. The prosecution merely sent out an appeal.

THE PRESIDENT: That matter has been settled, Mr. Hardy. There is no use taking further time.

DR. STEINBAUER: I am finished with the direct examination of this witness.

THE PRESIDENT: Do any other defense counsel have any questions to propound to this witness?

BY DR. WEISCHNER (Counsel for defendant Sievers):

Q. When did you meet Wolfram Sievers?

A. I saw Dr. Sievers for the first time and only time in my life, before this trial I mean, of course, on 20 July 1944 in the discussion in Dachau which has been mentioned here.

Q. Had you been informed before that you would see Sievers on the 20th of July in Dachau at this conference?

A. No, I was not informed of that, or at least only immediately before the conference.

Q. Then your superior agency did not tell you that you had to negotiate with Sievers?

A. No.

Q. What kind of an impression did you have from this meeting with Sievers? Was that just an accident?

A. Mr. Floetner, with whom I had negotiated before hand concerning these laboratory questions, said to me one day, "A man has arrived from Berlin. He can decide this question. Come with me. We will take to him."

Q. And what did you discuss with Sievers?

A. I told him that this small laboratory in Floetner's institute was not adequate for my investigations and asked him to give us a second bigger laboratory in the entomological institute, and he promised to do so, and we did get this room.

Q. Was anything said on this occasion about the execution of the sea water experiments? Was anything said beyond the supplying of the laboratory room?

A. No, not a word. The conversation was exclusively about this room.

Q. Then you did not talk to Sievers about the supplying of experimental subjects?

A. No, the experimental subjects were no doubt supplied on orders from Berlin and through the camp commandant's office. As far as I know, Sievers had nothing whatever to do with it.

Q. And this original opinion of yours did not change in the course of the experiments?

A. I didn't see Sievers any more; I didn't have anything more to do with him after the end of this conference, which as I said was about the laboratory. I never saw him again. I never heard of him again until I came to Nuernberg and heard he was one of my co-defendants here.

Q. And after this discussion you never saw or heard anything of Sievers which might have indicated that he had nothing more to do with this matter?

A. No, I never heard anything more.

Q. Did you in any form, orally or in writing, give a report to the Ahnenerbe or the Reichsfuehrer SS, or any other agency, aside from your own branch of the Wehrmacht, concerning your experiments?



A. I reported on these experiments only to my superior agency, the Luftwaffe Medical Inspector, and no one else.

Q. Now, you heard in the course of earlier examination that the Ahnenarbe had an institute for military scientific research. Did this institute have any connection with your experiments in any way?

A. I knew the name, knew that Floetner was working at that institute, but aside from these very vague connections, which were limited entirely to laboratory questions, I had nothing to do with this institute and the institute had nothing to do with me, that is, my experiments in no way were carried out or promoted or influenced by the Institute for Scientific Research.

Q. Now, for my final question. The fundamental question is the sea water experiments as far as I am informed were the 20th of May 1944?

A. The 20th of July.

Q. Yes, the 20th of July. Pardon me.

Subsequently did you learn whether Sievers or any other representative of the Ahnenerbe was present at this discussion?

A. I did not understand you; that was on 20 July?

Q. No, at the fundamental discussion about the execution of sea-water experiments?

A. Oh, you mean in Berlin?

Q. Yes, in Berlin.

A. From my own knowledge, I cannot tell you anything about this discussion. I was not present myself. What I know about it, I learned the details from this trial here. I heard from Becker-Freyse at the time that some men from the Navy, some men from the technical office and some University professors, including Eppinger and Heubner had held a meeting and arranged for the experiments. I never was told that the Ahnenerbe or any SS agency participated in this discussion.

Q. Thank you, no further questions.

THE PRESIDENT: Any further questions by defense counsel?

DR. FLEMING: (For the defendant Mrugowsky.)

Q. Professor, the Prosecution has charged Mrugowsky with responsibility for and participation in the sea-water experiments; did you know Mrugowsky before the beginning of this trial?

A. No.

Q. Did you know his name? had you heard his name in any connection with these experiments?

A. No.

Q. Did you hear anything else which might indicate that he was in any way connected with the sea-water experiments?

A. I never heard of any other agency or any persons in connection with the sea-water experiments, except the members of the Luftwaffener were the advisors called in by them, neither Mrugowsky or Schaefer or anyone else in the SS. I knew only that Himmler had given approval for the use of the experimental subjects and for the execution of the ex-

periments in concentration camps.

Q. Do you know the committee for Drinking Water Equipment in the Reichs Ministry Speer?

A. I learned of the existence of this committee here.

Q. Then as far as you know this committee had nothing to do with the sea-water experiments?

A. Certainly not. Making sea-water drinkable was not done by a committee but by the discovery of Dr. Schaefer.

Q. Do you know Dr. Zikowsky from Vienna?

A. Yes, he is the leading expert in Vienna for infectious diseases and the head of the big infectious hospital in Vienna.

Q. What was his attitude toward National Socialism?

A. I cannot give you any detailed information about that, but as far as I know he was not a party member. I believe that he had certain political difficulties, but I cannot give you any detailed information, only what I can more or less remember.

Q. Thank you no further questions.

THE PRESIDENT: Any questions by any other defense counsel? If not, the Prosecution may cross examine the witness. Before proceeding with the cross-examination, the Tribunal will be in recess.

( A recess was taken. )

THE MARSHAL: Persons in the courtroom please find their seats.

The Tribunal is again in session.

MR. HARDY: Dr. Beiglboeck, when did you join the National-Socialistische Partei?

JUDGE SEERING: Are you now proceeding to examine?

MR. HARDY: Yes.

JUDGE SEERING: May we ask a question or two?

BY JUDGE SEERING:

Q Witness, will you please turn to your Exhibit No. 33 in Beiglboeck Document Book 2, the document having been admitted in evidence this day as Beiglboeck's Exhibit No. 21. I refer in particular to the chart which has been made by Fritz Pillwein. Do you have it before you?

A Yes.

Q Can you say whether this chart is a correct representation of the wards, blocks and streets shown and whether or not it is correctly drawn to scale?

A I can not say anything exactly about the scale from memory. These were big barracks. Where is says, "Entrance to Hospital," that was where one came into the hospital. That was between two long barracks as are shown here.

Q How wide would you say that sick bay entry was?

A I estimate that it was about seven meters from the camp road until this line which Pillwein put in here at the end of his remark, "Entrance to Hospital. I estimate that was about seven meters.

Q How wide would you estimate the main corridor shown on the chart?

A How long you mean?

Q The width, not the length.

A Your Honor, you mean this main corridor that goes through the hospital? It was about three and a half or four meters wide.

Q The space that is indicated on this chart as being the "Block street" through which bodies were wheeled to the morgue and finally to



the crematory, was how wide in your estimation?

A It was the same width as the main corridor of the hospital.  
As far as I remember, it was the same width.

Q Was it covered over as a part of a building or was it an open street?

A It was between two barracks. This was a covered hall and between the barracks.

Q Is that also true of the passageway which is designated on this chart in English as the "Main corridor?" Was it also covered?

A Yes. Between the next two barracks there were open courtyards which also are called "Streets" here. This next street, the middle I can't say. I was never there, between the last two barracks where it says "Outer Court of the Experimental Station of Haacher - that was at that time Floetner - that was an open courtyard.

Q Would you estimate that these "Block Streets" or "Courtyard" between the barracks were about the same width as the barracks themselves?

A At least.

Q The barrack building or room in which you conducted your experiments, what would you say was the overall width of that barrack room or building?

A I estimate that it was eight meters wide and at least ten meters long.

Q Then from the nearest point of the outside wall of your sea water experimental station to the outside wall of the station where Vieweg was stationed would be, in your opinion, about what distance?

A That was also a courtyard. It was before the Floetner station, about five meters wide.

Q. Would it be your best judgement then that all of these barracks shown here are about 8 meters in width, and that the yards or streets between them were about 5 meters in width; is that correct?

A. Approximately, I can't give you definite figures, of course, but I remember that the distance was approximately the same as the width of the barracks themselves -- it could be one meter or more or less, I do not know, I cannot remember so exactly.

Q. Then, from the place where your Sea Water Experiments were carried on, you were approximately 5 to 7 meters from the Malaria Station in which Vieweg was stationed, and you were about the same distance in the opposite direction from the Malaria station which is shown on the chart as Block 3?

A. That this was the Malaria Station I did not know at the time. I thought it was part of the hospital at the time. Where it says "Vieweg," that was a laboratory, I know that, a laboratory for blood tests. I was never in either of these places. I can only testify as to what I saw through the window of my station. I saw that over there, where it says "Vieweg" there were microscopes and laboratory tests were carried out. Between my experimental station and where it says Malaria Station, Block 3, there were sometimes prisoners in the court yard. I considered that they were hospital patients.

Q. Now, then, the area, this is an area marked on the chart as "Court yard for Dr. Rascher's experimental station," where, in relation to that court yard, was Dr. Rascher's experimental station?

A. Dr. Rascher was not there any more when I was in Dachau. As far as I can judge from what has been said

here, he must have been dead already. I knew this as the "Floetner Station". And, in this laboratory which is at the end of the chart, I had a small room as a laboratory. Next to this room there was a big laboratory in which Floetner worked. And, those laboratory rooms were shut off by a solid wall from the rooms where it says, "Personnel Rooms of the Experimental Station." I believe that the prisoners who worked for Floetner also came from this direction, apparently they lived there.

Q. One more question. I understood you to say that as one of the rewards for volunteering for your experiments, the experimental subjects were to be given an additional or supplemental ration which was the same in quality and quantity as the SS food ration; was that inducement held out to them? Not the SS food ration but the Luftwaffe food ration?

A. Before and after the experiments, they were to get the Luftwaffe rations. The policy which I asked for them after the experiments was that they should not be put back to work, yet, and that they would be given additional food from the hospital for, sick people, and for persons who did extraheavy work, there were additional rations, and I demanded these additional rations for my experimental subjects, and the Chief Physician promised them to me.

Q. Can you state in what particulars the additional food rations which were to be given to your experimental subjects differed from the regular Wehrmacht food rations given to the soldiers in the field?

A. I cannot say, exactly. The patients in the hospital, I know this only from hearsay, I did not see this for myself, I only know the food that my nurses got. The hospital patients got milk, butter and bread and, in addition, as far

as I remember, they got half a loaf of Wehrmacht bread in the morning, the same kind of bread that was issued in the Wehrmacht; then for breakfast they had either margarine or Marmalade and ersatz coffee; for lunch they had a one dish; and for supper, they had some kind of soup and bread, or on several days I saw that they got sausage and cheese and margarine and bread, one of these things each time. I would estimate that this food of the medical students was about 2000 calories; that is a rough estimate.

Q. I believe you said at the beginning of your direct examination that you made some effort to have these experiments carried out in your own laboratory or institute; is that correct?

A. Yes.

Q. Are you of the opinion that you could have found enough volunteers outside a concentration camp to have carried out your experiments in your own laboratory or institute?

A. I am convinced that if one had gone to an unit of the German Wehrmacht and had said we need so and so many people for an experiment, who wants to volunteer, that I would have got enough soldiers. Certainly it was not that nobody would have volunteered; it was just that because of the existing orders, no one would be released for such a thing. But, under peace time conditions or less stringent orders, I am sure I would have got enough soldiers.

Q. What did you tell your experimental subjects by way of preliminary explanation concerning the details of the experiments they were about to undergo?

A. I told them about the following: It was to be decided whether sea water could be made drinkable or not; and, how one should conduct oneself if in distress at sea;



then I described to them, more or less, what the conditions of sea distress are; that the flyer crashes at sea with his life boat drifting along, and has to go along with no water or drink sea water. I told them that there were two processes which would make sea water drinkable; I told them that we had two processes which were to be tested. I also told them that drinking sea water or salt water is very unpleasant. And, that I could guarantee only the one group would get some water that they would not be thirsty, and all the other groups would be thirsty. And, then I told them that during this time they would have very little food or perhaps none at all; that they would be hungry, too. I told them that their thirst would be very unpleasant. I made that very clear to them, and then I asked them whether they would be willing to do this, and saying that this was an experiment in the interest of rescuing people; that by taking this unpleasantness on themselves they might help many other people. And, I told them that if they cooperate and the experiment went off well, they would get cigarettes from me according to a system of premiums. And, furthermore, that I would try to get alleviations of their sentences for them. What I had in mind was what had been promised to me by the SS. I had been explicitly told that these people would not have to go through the experiments for nothing; that they would get certain considerations. Two people told me that explicitly.

Q. Who were these people who told you that?

A. One was the adjutant of the camp commandant. The other was Dr. Pleetner.

Q. Did they explain in detail what concessions were to be given these concentration camp volunteers?

A. They told me there was light work in the camp. For instance many prisoners as far as I saw were just keeping the rooms in order-- the billets of the SS guards and the officers had to be straightened up in the morning, etc. This work was very coveted. It was much easier than work in the factories, for instance, or construction work. They were to be assigned to such light work for a considerable period. And, then I knew that many of them wanted certain alterations for their relatives. I remember that one of my gypsies wanted his father or some relative who was also a prisoner to be released. I passed this request on. Then, as I said, part of the gypsies were former members of the Wehrmacht and they told me there were certain prospects for members of the Wehrmacht to be released more easily. And, I reported their names and had their cases reviewed.

Q. Now, then, what else did you tell your experimental subjects about the experiments? I am talking about prior to the time that you actually began the experiments.

A. I told them that I would divide them into various groups. That one group would receive water that had been processed and the others would go without food or drink and others would get sea water. I told them one group would get one-half as much as the other. One would get one-half liter and the other one liter a day. I also pointed out the group that got nothing and the group that got sea water would have the most thirst, that they would have the most to put up with. And, I made the distribution in this way by picking out the strongest people for these groups. And then I told them at the beginning that we had to make a number of tests, that urine had to be collected and that

blood would be taken from them for examination. That is roughly the explanation that I gave them.

Q. Is that all you told them?

A. Then I asked them whether they were willing under these circumstances, emphasizing the fact that they would suffer from thirst whether they wanted to participate in the experiments. They had a chance to think it over and they came back and said, "Yes, we want to participate." and I said, "If you are willing now then you have to keep the conditions of the experiments later."

Q. Did you tell them anything else?

A. I can't remember anything else at the moment.

Q. You have introduced in evidence Beiglboeck Document No. 32 in Beiglboeck Document Book II, which has been received in evidence by the Tribunal as Beiglboeck Exhibit No. 21. It is an affidavit or a statement made by one Fritz Pillwein, I believe. You introduce that exhibit as part of your evidence in the case and as a part of your defense, do you?

A. Yes.

Q. On page 2 of the original exhibit which appears on page 118 of the English text is the answer directed to the affiant as follows: "What do you know about the citizenship of the experimental subjects?" and as a part of the answer of the affiant appears this statement: "The experimental subjects in most cases spoke the gypsy dialect. Many of them were obviously of Slavic origin." Is that correct?

A. Yes. Among the gypsies there were some who came from Hungary or the Hungarian border. I don't know how many, three or four perhaps. Then there was a larger group which came from near Bratislava. I don't know exactly where but they often spoke Slovakian. There were many of them who did not have any definite residence. I talked to the gypsies quite a bit during the course of the experiments. I know part were German, part of them from Austria, one was, I believe, from Roumania.

I believe, a few of them, I don't know exactly how many at the moment, were from Hungary, from the Austrian Hungarian border, and a group came from Slovakia. I am unable to give any details about the citizenship--anything definite. I didn't see their papers myself and I must say that at the time I didn't consider this question vital.

Q. appearing in the same answer to the same question is this statement: "I did not see the identification papers, however, as this was quite impossible in a concentration camp and as I did not ask them anything pertaining thereto, I therefore cannot make any exact statement regarding the citizenship of the individual gypsies." and then I direct your attention to this statement made by the affiant Pillwein: "I did not ask them because the gypsies were very primitive people and some of them did not even know their own birthdates." Did you observe the same thing regarding these people as did the affiant, your witness Fritz Pillwein?

A. I don't remember asking them for their date of birth myself. It is, of course, possible that someone said "I don't know exactly." That is an answer that one often gets from a gypsy. As I know, earlier in Austria we often had occasion at the clinic to treat gypsies and their personal data was not always very accurate.

Q. Well, I ask you this, and this is the matter about which I am interested, wasn't as apparent to you as it was to your witness Pillwein that the gypsies were very primitive people, and I take it were in many particulars in a sense very ignorant or poorly educated people? Did you observe that in your dealings with these people?

A. I have already said that some of these gypsies were the kind of people that go about the country in carts, didn't have any regular school training. Many of them even if they had a definite residence didn't have regular schooling which could be called even average. That is no doubt true that their education was pretty bad but they weren't dumb.



Q. No further questions.

BY THE PRESIDENT:

Q. Witness, referring to the chart again, the same one which is a portion, an annex, to your Exhibit No. 21, you referred--used the word--barracks. Now, to you is a barracks a room in a larger building or is it one separate independent building under its own roof?

A. If I understood the question correctly by barracks we mean wooden buildings. There were in Germany quite a number of barrack settlements, mostly for Wehrmacht labor service workers' homes, etc.

Q. I understand that, witness. But, now referring to your chart. Did the room where your sea water experiments were carried on, was that under a common roof with other adjoining rooms or was it separate and had its own roof?

A. In this barrack where my experimental station was, there were three rooms altogether. A smaller room which stuck out into the big room. Then there was a smaller room where it says "museum". I don't know that personally. That was locked. I was never in there, and, toward the hospital main entrance, there was the wash room and the toilet. That was all under one roof and that was a barrack - a separate building.

Q. And that roof that covered your barrack did not cover any other building?

A. No, no. Between my barrack and the other barracks there were open spaces, uncovered court yards.

Q. That answers my question.

Counsel may proceed.

CROSS EXAMINATION

BY MR. HARRY:

Q. Professor Beiglböck, when did you join the NSDAP?

A. In 1933, I joined the NSDAP before the Party was prohibited in Austria, and then I joined again in 1938 after the Anschluss.

Q. Did you belong to the SS?

A. No, never.

Q. The SA?

A. Yes.

Q. Did you belong to any National Socialist Physician's Association?

A. Yes, 1938.

Q. Did you belong to any other NSDAP organization?

A. The League of Lecturers. Nothing else.

Q. Did you attend the school at Altrose?

A. No, I was never there.

Q. Dr. Beiglböck, do you know Hans Popper?

A. Yes.

Q. Who is he?

A. Popper was a student of Eppinger's. He was at Eppinger's clinic as assistant.

Q. Was he Eppinger's immediate assistant?

A. Yes, of course.

Q. Did you succeed him?

A. Did I succeed him? I was an assistant together with him.

Q. Well, who was the first assistant? You or Lopper?

A. The first assistant was neither Pinner nor I.

Q. Where is he per now? Do you know?

A. I know that he went to America.

Q. What was your rank in the Luftwaffe again, witness?

A. I was Stabsarzt at the end. That is, Captain.

Q. When did you enter the Luftwaffe?

A. 1941.

Q. When did you enter the SA?

A. 1934.

Q. Did you stay in the Luftwaffe until liberation?

A. I remained in the Luftwaffe until the end of the war, yes.

A. When did you resign from the SA?

A. I did not resign from the SA. I 1939 I stopped my SA service.

Q. What was your rank in the SA?

A. At the end I was Obersturmbannfuhrer. That was a honorary rank.

Q. What were your duties in the Luftwaffe. From the time when you went to the Luftwaffe were you on active duty as a Luftwaffe physician?

A. First, I was a medical soldier. I got my basic training like any recruit and after basic training, I was used as a doctor and got the normal promotions just like any one else.

Q. Did you wear the uniform at all times.

A. Of course, I always wore the uniform unless I went out in civilian clothes.

Q. Now, in 1944, you received orders to report to the Medical Inspectorate in Berlin. Do you remember the exact date?

A. No, I cannot remember the exact date. It was in the second half of June, I believe. I believe from the letter I am here where I write that

I have been on this job since the 1st of July but it must have been in the last few days of June that I got the order.

Q. Then, when you reported to Berlin you were informed that you had been recommended by Professor Eppinger to perform the air water experiments. Is that correct?

A. Yes, that's right.

Q. Who informed you to that effect?

A. Becker-Freyssing informed me.

Q. Did all your dealings take place in Berlin with Becker-Freyssing or was somebody else instrumental in instructing you as to how you would perform the experiments at Dachau?

A. Most of the talks about the experiments that I had were with Becker-Freyssing. I received the official order from Marx whom I believe was an Oberfeldarzt at the time, and once I reported to Professor Schroeder briefly.

Q. When did you speak to Schroeder?

A. I cannot give you the date exactly. I had been in Berlin for some time. Professor Schroeder was not there until two or three days later, I believe, and he came to the Medical Inspectorate for about one day and I reported to him, but then I never saw him again until I had come back from Dachau.

Q. Immediately upon being informed and instructed by Becker-Freyssing as to your assignment, did you then ask for a release?

A. In my direct examination I said that immediately afterwards I asked that I not participate in these experiments or else be allowed to carry them out in Sarajevo or at the clinic at Vienna or some place else - not in a concentration camp. Then, when I learned that was impossible, as I said in my direct examination, I asked that some one else be put in my place. These are the efforts that I made to get out of it, and then I wrote to my chief physician that he should ask for me to be sent back so I could get out of these experiments.



Q. Becker-Freyseng informed you that it was too late to get out of it, is that is?

A. Yes.

Q. Were your misgivings based on the fact that you had a horror of working in a concentration camp?

A. Yes.

Q. No other reasons?

A. No.

Q. You told Springer about your misgivings, didn't you?

A. Yes.

Q. Did you tell Dohroeder about them?

A. No, because Merz had already refused definitely. Merz said, "This is an order. You have to carry it out. We can't exchange you", and then I saw there was no point in trying to do anything more.

Q. Why didn't you just refuse to carry out the order?

A. Because I had been given a military order.

Q. And you were afraid that something would happen to your family, as you said in direct examination?

A. I was afraid if I said, after I had inquired whether it was a military order, and then said "I won't carry it out", I was afraid that I would be called to account for refusal to obey orders. That is customary.

Q. You said that, in direct examination, you thought if you had refused to carry out this order that something may come back on your family. That your mother and father may suffer from it. Is that correct?

A. My mother and father would not have suffered. My father, because he was no longer alive, and my mother wouldn't have suffered either, but I would probably have been brought to trial and my wife and children would have suffered from that.

Q. Was Himmler involved in these experiments?

A. I know nothing about Himmler in connection with these experiments or, at least, didn't until this trial, except that Himmler had had to give permission for the experiments to be carried out in Dachau. He had been asked to give this permission.

Q. "Well now, if you had refused the order and had been brought to trial, just what would have happened to your wife and child?"

A. That depends on how the court martial turned out. It would have been possible for me to be condemned to death for refusing to obey an order and then my wife and children would have been helpless.

Q. Is that all?

A. That would have been enough for me, personally?

Q. Would they have been physically harmed?

A. If you consider a death sentence bodily harm, yes.

Q. Well, yesterday you stated on direct examination, very explicitly that if you had refused to carry out these orders that something would have happened to your family. Now, just what would have happened to your family?

A. If I testified that something would have happened to my family, which I don't believe, then I must have expressed myself badly. I believe I said that out of consideration for my family I had to obey this order. I meant that my family would suffer indirectly.

Q. Now, you stated that your father was not alive at this time. Is that right?

A. Yes, that's right.

Q. Was your mother alive?

A. Yes.

Q. Did you have a step-father?

A. No.

Q. Who do you refer to in this letter that you have introduced into evidence dated the 12th of August, 1944, when you wrote from Dachau and addressed it to "Dear Pa and Ma"?

10 June 47-M.S.-10-6-Harrow(Von Schon)  
Court No. 1

A. These were my in-laws. The parents of my wife.

Q. I see. Thank You.

Q. Now, when you were instructed by Becker Freyseng concerning the experiments just what did he tell you the purpose of the experiments were to be briefly, Doctor?

A. He told me that the purpose of these experiments was first of all to decide whether the Berka method was a useful method to avoid damage from sea water, that is to remove the salt from seawater in certain form; secondly, whether we want to test our other method at the same time. The control group which was to get fresh water originally, we will use the Schaefer method for them; thirdly, we did have especially the Schaefer method group introduced because lack of raw material and we thought the Berka method would not do what people expected of it. In this case if one method could not be introduced because of raw material lack, and the other because of ineffectiveness it would be important to decide whether it would be better to go without water or drink sea water.

Q. Then the circumstance as outlined to you was merely to test the efficacy of Schaefer and Berka's methods?

A. Among other things, yes, but the first question that would come up and which had to be decided, was that according to the witnesses at the time it was probably that neither of the methods could be introduced. One because there was not silver available and the other because the medical inspectors expected that it would not be effected, and the question was whether to go without water or rather drink sea water.

Q. Well, was the Berka method effective enough to reduce damage to the human system?

A. You mean theoretically or according to the results of my investigation?

Q. Well, first theoretically and then according to the



results of your investigations; at that time, was it believed that is prior to the time you instituted the experiments, was it believed that the Berka method was effective enough to reduce damage to the human system?

A. I explained in my direct examination what opinions were held. There were two different ideas, one which Mr. Schaefer represented with so much nerve was that the Berka method had no effect at all because it had no chemical reaction with the salt, and I believed everyone realized this with the exception of Berka himself, and perhaps Mr. Sirany. The second idea was one represented by Zppinger that it had no chemical effect but perhaps a psychological effect, and therefore it would be somewhat effective if it was possible to introduce the Schaefer method which might justify a recommendation of the other method.

Q. Well, then the purpose of the experiments was to find out whether or not the Berka method would be effective enough to remove damage to the human system, that was the purpose of testing the Berka method?

A. The purpose of the test was to determine whether under the influence of the Berka drug there would be other reactions of the body than when sea water alone was used. One does not have to have any damage. Physiological tests will be enough on analysis to arrive at such a conclusion.

Q. Then what was the purpose of using the Schaefer method in your experiments?

A. The Schaefer method was included in these experiments for an external reason, if I understand correctly. I can't determine the motives here. It would be better to ask Becker-Freyseong that. It was necessary, of course, and was intended that there should be a group which would have the same food conditions, but would get enough water. As far

as I recall this group originally was to get drinking water, and I believe I remember that Becker-Freyseng said we might take the Schaefer method right away. At least the technical office will then have the proof that Schaefer water is drinkable.

Q. Did you consider this whole program to be superfluous work?

A. I considered it superfluous if one has a good method to quarrel for months about introducing a less effective method. I considered it superfluous to build a laboratory from the scratch in 1944 while on one hand a laboratory already, but it seemed to me worth determining whether better results could be given by sea water than by going without sea water. This question was not solved then. At the same time we worked on it and when I was forced to work on it it was an urgent problem elsewhere and was solved and better than I did.

Q. Will you tell us why the program was classified secret?

A. I believe I can tell you that. I can't tell you with certainty, but I think it was important the program was secret. Moreover in Germany at this time there was very little that was not secret.

Q. It was classified top secret, wasn't it?

A. I believe it was secret, but I can't say for sure.

Q. Was it customary in the Luftwaffe for an officer working on a secret matter to communicate the secret matter to persons not engaged in that same work?

A. No not as far as the secrecy was concerned. I didn't tell anybody what the Schaefer process was. I didn't know. I don't know today. It was not secret that we were investigating it. Nobody told me it was secret.

Q. You mean it wasn't secret you were working at Dachau on this work at Dachau?

A. Not in no way. At least I was not given any such instructions.

Q. You thought that you could freely communicate to Joeser or anyone else that you were going to experiment on human beings at Dachau to test the efficacy of two sea water methods?

A. I was convinced of it.

Q. Well, I note in Exhibit 7, Biegelbock Exhibit No. 7, which is page 28 of the Document Book I, which is a letter to Dr. Steinbauer from Dr. Spiess, in the second paragraph the last two sentences states as follows: "Upon my remark that these experiments surely were Wehrmacht experiments and therefore secret, they were not intended for everyone else. Professor Dr. Eppinger replied, "One could frankly speak about them as no ones of death and occurred with the sea water experiments, and also that no experimental person had suffered any serious consequences during the experiment, so that there was no reason to make a secret of it." Isn't it evident from that passage it was necessary to keep the entire program a secret prior to the execution thereof, and the documents here in evidence are classified secret, not the methods?

A. Whether this undertaking was classified secret or not or what degree of secrecy it was given, I can't tell you, I am not an expert on that subject. In my Wehrmacht service I did mostly medical work and my service was administrative, and I am not familiar with the other side of it. If Dr. Spiess told Eppinger it was a Wehrmacht matter that possibly meant that Wehrmacht matters were on general principle kept secret, but they were not treated



as secret as is shown by the fact that Eppinger who was an officer himself talked about it. Anyway Eppinger was a Lt. Colonel or something like it, and he didn't see any reason for making a secret of it. He talked about it everywhere. That is probably the reason. One didn't talk about Wehrmacht matters. It was not customary. If one knew there was a new weapon or something, one didn't go around and tell everyone how it was constructed. All the Wehrmacht matters were clothed with a certain secrecy. That was probably the assumption of Dr. Spiess when she asked him about it. The wording, by the way, isn't very much to the point.

Q. Now prior to the time you proceeded to Dachau to start your experimental program you stated on direct examination you remained in Berlin and stayed a couple of weeks; while in Berlin did you have an opportunity to confer with Schaefer?

A. No.

Q. Did you contact Schaefer?

A. No.

Q. Did you talk to Berka?

A. I got in touch with Berka later for a very minor reason. It was that we had certain equipment, test tubes, etc. from his laboratory in Vienna which we had borrowed.

Q. Would you repeat that answer again. I don't think I understood you correctly?

A. I said my connection with Berka or rather the fact that I got in touch with Berka had a very minor reason which was that I had borrowed equipment from Berka's laboratory.

Q. Then you didn't have any extensive consultations with either Berka or Schaefer prior to your actual experiments?



A. Not orally, no, but Sirany's experiments on the one hand and Schaffer's experiments on the other hand I had reported on. It was originally intended I would not get in touch with either or do nothing in order not to endanger the objectivity of the experiments.

Q. What was that again?

A. It was intended that I would not get in touch with either of them in order to not endanger my objectivity, so that I would not be influenced either against or for either of the methods.

Q Well, was this a competition between the Schaefer and Berke method and you were the judge?

A I was not the judge. I was the one who had the misfortune to be ordered to carry out experiments which were decided upon at the meeting of 25 May by various civilian and military celebrities, but Berke obviously had the feeling that there was some rivalry. I believe that was the psychological reason why this was demanded.

Q Well, then if you would have consulted with Schaefer and Berke would that have effected the objectivity of the experiment?

A I did not talk to Schaefer, I did not consult with Berke either. When I got these things from Berke from his laboratory, I did talk to him, but I did not get any advice from him. I just happened to be there and what influence that had on the outcome of the experiment, I cannot say.

Q Well is it true that perhaps Berke had more political influence than Schaefer?

A I know nothing about any political influence of Berke. I believe he was originally a Social Democrat.

Q I don't mean his party affiliations, I mean his particular influence with the people who were to determine whether or not the Berke method was to be installed or whether or not the Schaefer method was to be installed; did it appear to you from your discussion with Becker-Freyseng in connection with the experiments, that Berke had the most influence?

A I am convinced that the technical office was behind Berke. Berke was a technical man himself and belonged to the technical office. The technical office made Berke's cause its own and I believe that Berke had quite considerable influence with the important men in the technical office. At least that was my assumption, that was the impression I had.

Q Would Becker-Freyseng have been medically qualified to have conducted these experiments?

A You are asking the wrong person, but I imagine so.

Q Would Professor Lippinger have been medically qualified to perform those experiments?

A Yes, I am convinced that he would have.

Q Then, Schaefer?

A I am informed about Mr. Schaefer's training only more or less from what I heard here. As far as I know, he was primarily a laboratory worker, a medical chemist.

Q Could Berke have conducted the experiments?

A Berke was an engineer, a technical chemist. I don't believe that experiments can be placed in the hands of a technical chemist.

Q Then, this question could not have been determined unless you had been employed to determine it; is that correct?

A If you mean that I was the only person in the world who could have decided this question, then no. I must say there could have been twenty, thirty or more internists in Germany who would have been able to carry out these experiments. That I just happened to have the misfortune, was a unfortunate coincidence.

Q Did you ever experiment on human beings prior to your experiments with sea-water at the Dachau concentration camp?

A I must ask you what you mean by experiments on human beings. Of course, we had quite a number of metabolism tests which we carried out at the clinic.

Q I think you are better qualified to determine what an experiment on human beings is than I. Did you ever carry out experiments on human beings before in the sense we are discussing them before the Tribunal; that is what I mean?

A That is why I asked you to tell me what you meant by human experiments. I never performed a dangerous experiment on a human being, including the sea-water experiments.

Q Well did you ever perform any experiments on human beings prior to the sea-water experiments at Dachau?

A I have already said that at the clinic I performed a number of metabolic experiments, if you can call them experiments. For example we were interested in how Vitamin B effects the elimination of table salt or potassium salt in the stomach or what the medical influence is to Vitamin so and so, that is the kind of tests we made at the clinic and I performed a number of such tests.

Q Were the experimental subjects used volunteers?

A Yes, of course.

Q Did you have to follow any particular procedure to secure those volunteers?

A At the clinic?

Q Yes.

A The procedure was that I asked, do you want to help? We are interested in finding out certain things if we give an artificial injection of this drug, we want to find out about table salt research. We don't have to go into detail, you will have to keep on a certain diet. Every day you will get



the certain injection and we will take the urine and blood samples. Then the person would say yes or no. If he said yes, then it was done. If he said, no, I did not continue and did not do it, I merely went to the next man who said yes.

Q Who are the people you refer to; do you mean the clinical employees or were they outsiders?

A Some of them were the employees of the clinic, or doctors or medical students. Some of them were theoretical experiments, for example, we could not decide whether the theoretical effect on a heart patient was similar to the effects we received by testing it on a healthy person and similar tests must be made on patients to see if with certain diseases that is true and effective.

Q Did you get their consent in writing?

A No.

Q Is it necessary to determine the age of a person before you used them in such an experiment?

A Yes, of course.

Q How old did they have to be?

A It was not necessary to know the date of birth, but it was important to know if the person was twenty or eighty.

Q Well, did you have to know whether or not the person was over the age of twenty-one?

A On the whole, we had only people over twenty-one at the clinic.

Q Could you have used a person under twenty-one years of age if they volunteered?

A That I consider as certain.

Q A person under twenty one years of age is considered to be a minor in Germany; or they not?

A Yes that may be, but for example I know well that such tests are performed in children's clinics too.

Q It is necessary, if a person is a minor, to get written permission of the parents or guardians; is it not under the German law?

A. That is a legal question and I cannot answer it. In the tests we performed at the clinic, we never got any written permission from an eighteen year old, whether it was a stomach tumor which was to be given a new treatment. We did not discuss whether written permission was received from the parents or guardians.

Q. Was there ever certain operations which cannot be performed in German medicine unless you have written permission; this is not a legal problem but a legal medical problem which every doctor is familiar with; is it not?

A. Yes, when performing such major operations, every surgeon gets the statement of consent and he has it signed.

Q. I see. Well, suppose, the person is under twenty-one years of age and a major operation must be performed; who signs the permission, the parents do they not?

A. It is possible, yes.

Q. Well, don't you know, Doctor?

A. I am not a surgeon.

Q. Suppose you had some particular function to carry out which required the consent of the subject and the subject was under twenty-one years of age; would you carry out the duty of a physician without having first received the consent of the parents or would you merely accept the consent of a child?

A. This question never confronted me, because in the hospitals in Vienna when the patient was admitted such questions were discussed with the parents or with the patient and settled. I would like to grant you that in general practice if one was to take any measures to which this law applies, then you would have to ask the parents if it is a minor.

Q. Then, you never bothered considering the problem of consent of a person under twenty-one years of age during your entire career as a medical man; is that correct, until today?

A. At the moment somebody was admitted to the clinic, he signed his consent.

Q. That is a child will come in and sign his consent or will a parent accompany the child and sign their consent?

A. Then the parents signed.

Q. This is a good breaking point, Your Honor.

THE PRESIDENT: The Tribunal will be in recess, until one thirty o'clock.

(A recess was taken until 1330 hours.)

AFTERNOON SESSION

(The hearing reconvened at 1330 hours, 10 June 1947)

THE MARSHAL: The Tribunal is again in session.

DR. WILHELM BEIGSBLOCK - Resumed

CROSS EXAMINATION (Continued)

BY MR. EARDY:

Q Professor Beigblock, regarding the subject, volunteers to be used in medical experiments, what is your opinion about the ability of a layman to volunteer for medical experiments?

A A layman who is informed what will take place during the experiments is, of course, in my opinion, perfectly capable of voluntarily deciding whether he wants to participate in that experiment or not.

Q Then do you feel that first of all the field of research must be exhaustively studied, experimentation on animals must be exploited to the fullest extent prior to resorting to experimentation on human beings?

A I am of the opinion that when animal experimentation is useful every human being experiment must be preceded by experiments on animals.

Q And the experimental subjects must be warned of the hazards of the experiments, if any?

A Yes.

Q What is your opinion regarding the ability of a person incarcerated in a concentration camp to volunteer for a medical experiment?

A As I have already indicated in my direct examination, it is my opinion that every prisoner is, to a certain extent, limited in his freedom; but, within the framework of this limitation of his freedom, he may, of course, answer the question yes or no whether or not he wants to participate in that experiment, presupposing, of course, that an answer in the negative would not lay open to any sort of reprisals.

Q What type prisoner in a concentration camp do you deem fit to volunteer for medical experiments, meaning by that using the word



"Volunteer" in the true sense of the word.

A With the limitation that I have just stated for the prisoner, I consider that any type of prisoner can decide "yes" or no in such a question.

Q These prisoners or gypsies used in the sea water experiment, can you tell us in what manner they were selected for the sea water experiments?

A So far as I heard regarding this from them, they were asked whether they wished to apply for experiments in Dachau and then from the top or some large group of them there the number in question did apply.

Q Did you participate in the actual selection of the gypsies used?

A No. Regarding this I can only give you details about the gypsies who volunteered from the concentration camp at Dachau.

Q Did you consider the selection of the gypsies to be used a matter for the SS?

A Yes.

Q And you had received a direct order not to mingle in SS matters?

A I received the order or the instructions not to interfere in matters that concerned the concentration camp. I was assured that it had been agreed with the SS that only volunteers were to be used for the experiments and the SS had to carry out the selection of them within the framework of its duties because, of course, the Luftwaffe, as far as I myself personally had any influence or power to issue complaints to the concentration camp, I think that has to be emphasized again and again -- namely, that the situation were not the same as they are in any free community. On the one hand there was the Wehrmacht, on the other hand the SS; and the affairs of the concentration camp concerned the SS solely and I could exercise no influence on them. I simply had to rely on what my superior officer told me or what I was told by the officers who were in charge of the affairs of the concentration camp.

Q Now, you say that you checked with Dr. Floedner, the camp adjutant, and the Sturmbannfuhrer in charge of the transport as to the status of the gypsies. Is that right?

Q. Why did you make such an exhaustive check?

A. Because I wished to be absolutely certain that they really were volunteers.

Q. Did you have some misgivings as to whether or not they were volunteers, and that was the reason why you questioned three persons in that regard?

A. I had no misgivings. I was told that volunteers were to be used for these experiments but, of course, I was interested in being absolutely certain on this subject.

Q. Well, now, were these Gypsies in these experiments full blooded or halfbreeds?

A. So far as I know, they were in the most part halfbreeds, but in this matter also, I have no specific or precise data. And, in conversations I did not concern myself too much with this matter because at that time it did not seem to me to be very important. I was simply told that these Gypsies; that was the assurance I received when I inquired into the matter of the insignia they were wearing.

Q. Were they rendered or judged social simply because they were Gypsies?

A. That, I cannot tell you in detail; I only can tell you what the SS officers told me about this: They told me explicitly they were not in custody because they were Gypsies but because they were asocial; most of these had already been previously sentenced. And, I asked them what their punishment had been, and the Gypsies said nothing really serious. So, I asked them what they had done and they said, well, nothing of importance. I had the impression that they did not like to be questioned about that.

Q. What type of criminal offense must they have committed to be rendered asocial?

A. That, I do not know; but, I believe that for the most part, if I can judge what I read in the medical periodicals, they were called aso-

cial for family reasons. Such asocial families were being checked in Germany at that time. Now, whether this was the reason for taking them into custody, or whether that gave them a right to take them into custody, that I cannot tell you. I did not put them there. I saw no papers on them, and I know nothing about the previous convictions they had received. I simply was informed that they were held as asocial persons, and it was not important for me to carry out the seawater experiments on asocial persons. I did not have the impression that asocial persons were being specifically turned over for the experiments. I took them for the experiments simply because they were given to me by the SS, and I assured myself whether they were volunteers or not. If volunteers with another triangle on their arm had been turned over to me, I should have used them just as well. And, as I said, I did not concern myself at all with the question whether they were asocial.

Q. Now, Doctor, would a child be adjudged asocial if his father was classified as asocial?

A. It is not easy to answer that question. There are some families who have been investigated very carefully, and a large number of the members of such families belong in the category of asocial. The family Juke, if I am pronouncing it correctly, is such a family; they received much attention as asocial family, when having been investigated by use of psychiatric and hereditary problems. Members of that family have distinguished themselves by being guilty of crimes and other asocial actions. This does not exclude the possibility that, in this family, there can be a large number of persons who did not commit any crimes. Nevertheless, the family is declared asocial. Now, if there are children from a family in which, let us say among 100 members an estimate of 70 are characterized by a criminal life, then that whole family will be scientifically classified as asocial family. I do not know what the basis for giving the insigna was, namely, the insigna that classified



people as asocial; that is, as I say, I do not know.

Q. Well, now, what did you actually say to each subject when there reported people to you for the experiments, did you talk to each one of them individually?

A. I called the experimental subjects together and told them what the experiment was about. I did not repeat this information to each one individually, because that would have taken a whole day; and, then I told them that they could think about whether or not they wanted to participate. I had been informed that some of the prisoners in Dachau wanted very much to participate, and if necessary, I should have made substitutions.

Q. Did you, in the course of your lecture to these 44 subjects, tell them what your experimental problem was to be, and what might be expected?

A. I could not tell them what was to be expected because I could not prophesy what the results would be; that was the whole purpose of the experiments.

Q. You mean it would be scientifically ethical to conduct an experiment on a human being without having any conclusive knowledge as to what the results may be?

A. What the possible results might be, that was more or less known, but if the precise results were known, that would make any experimentation superfluous. Before you enter upon an experiment, of course, you have a plan. You know what you are looking for, but you do not know what you are going to find when you are looking for it. I could tell my experimental subjects that I could guarantee to them that nothing would happen to them; that was the most important thing to the experimental subjects. Whether the concentration in the kidneys was going to be 2 or 3 percent, that was unimportant to the experimental subjects. And, that as I say, I am sure they did not want to know that.

Q. Did you warn them of any possible danger or hazard during the

the course of the experiments?

A. I told them that they would feel severe thirst, and they would probably become nervous because every one who is thirsty becomes nervous. I told them moreover, that I would also be near them and protect them from any danger.

Q. Did you tell them that they could quit whenever they wished?

A. I told them you must put up with that thirst for a few days, I cannot tell you for how long exactly, and I told them that they would not have to thirst any longer than I could take the responsibility for. And, I told them if they simply could not stand it, they should tell me and I would take that into consideration. But, I did not tell them and I could not tell them that as soon as they felt thirsty they should just come and tell me and then we would give them water, because after all, this was a thirst experiment. And, I had to require of the experimental subjects that they should thirst for a certain period of time, that was the very nature of these experiments. I know that you are trying to make a charge out of this against me, and are trying to appraise the feeling of thirst in this way; thirst being one of the most uncomfortable feelings of all feelings, but that was the agreement I made with them--I told them that such and such and such and such for four or five days, I do not know how long that is going to be--you are to have to stand this thirst you feel.

Q. The discussion as to whether or not they would be relieved from the experiments or whether or not they would be relieved lied solely with you; is that right?

A. That decision lay with me, yes.

Q. What reward did you offer these experimental subjects?

A. I told them that afterwards they would be spared what they had previously been subjected to, and that they should come to me with their wishes, and I would do what I could. Moreover before and after the experiments, they would receive the extra rations; before they could rest

for three weeks, and after the experiments for three weeks, and also I communicated any special wished of theirs to the camp commandant, and received his approval for many of these wishes.

Q. Well, did you offer them cigarettes in addition to that?

A. Yes.

Q. Did they get them?

A. Certainly.

Q. Did you have a vast quantity of cigarette on hand?

A. I got the cigarettes from the same place I got the food, the air field. And, I cannot tell you how many there were in toto, but it was several thousand cigarettes.

Q. Were you in a position to get all the cigarettes you needed within reason?

A. To the extent that the Mess Sergeant gave me the cigarettes; to that extent I could provide them.

Q. Well, then, why was it necessary for your mother-in-law and father-in-law to send you cigarettes?

A. Because I received the cigarettes from the Mess Sergeant not for myself, but for my experimental subjects; and my parents did not have to send me those cigarettes. They sent them to me; that sort of thing happens in the best of families.

Q. Did you check and absolutely make certain that each one of those subjects received, as his due reward, after having been subjected to the sea water experiments?

A. I distributed the cigarettes according to a certain arrangement: Those who had kept on with the experiment received the most cigarettes, and those who from the second day on kept on drinking fresh water did not get any cigarettes.

Q. Well, what other reward did they get beside the cigarettes?

A: I can only report that they applied on the condition that previous and thereafter they should receive better rations. After the experiments they were to be treated as convalescents and were not to work. They were promised mitigation of their detention. And, what I did on my own initiative was to supply the cigarettes and, also, I went personally to the camp commander and told him that these persons had carried out the experiments in a good way and that they should be rewarded.

Q: Wouldn't it have been dangerous to have pardoned or to have commuted the sentence of a person labeled as a criminal in Nazi thinking?

A: Only very few of the special persons are dangerous, usually these professional criminals who are guilty of violent crime. The others are not dangerous. I am thinking of special persons as I understand them in medical terms. Such people are those who are malingerers - who don't work. Such people are not dangerous, just useless. Pickpockets are special persons. They are somewhat dangerous, particularly for people whose pockets they pick. But they are not dangerous criminals in a criminal sense of the word.

Q: Then would you say that each and every one of the forty-four experimental subjects used in your air water experiments at Dachau were criminals and were sentenced to a death and hence "deserve" nothing but incarceration in a concentration camp, or do you feel that some of the inmates you used were falsely incarcerated?

A: I am convinced that a great majority, and perhaps all of them, were not dangerous. I am fully persuaded of that but I do not know why they were included in the category of special persons or do I know why these special persons were in a concentration camp. I was not a friend of Himmler nor (1) I being in his office, nor (2) I have any power to interfere in the plans of Reich Minister Himmler. I was just a lieutenant officer who had received an order to carry out experiments and if I had gone to Himmler and told him, "Reich Minister, you are keeping these people here unjustly, I consider that a crime". I would have been shot, killed, or at best locked up in an insane asylum.



Q: When did you arrive at Dachau, at the concentration camp, the date? You must remember that in as much as in letters to your mother-in-law and father-in-law you explained this as the most unfortunate incident in your career. Now, surely you can remember the date you arrived at Dachau.

A: I estimate on the 18th. I can't tell you for sure but I think the 18th of July because very shortly thereafter, the next day or the day after, the conference took place with Sievers which I attended. Then I went to Vienna to get my laboratory equipment.

Q: When did you leave Dachau?

A: After the experiments you mean?

Q: Yes, when did you leave for good and go back to Vienna?

A: 15 or 16, I believe the latter, of September.

Q: 15th or 16th of September?

A: Yes.

Q: What did your working day at the concentration camp consist of? What time did you arrive there in the morning?

A: 7 A.M.

Q: What time did you leave in the evening?

A: Usually at 8 I went to dinner. Then I returned and finished up my report. It was frequently 10 or 11 before I was done with that.

Q: Do you recall the nationality of each one of these subjects used, whether any of these subjects were Czechoslovakians, Austrians, Germans, Hungarians, or Poles?

A: I have already told you this evening what I know about that.

Q: Do you know whether or not any of them were other than of German nationality?

A: Regarding their citizenship I have no precise knowledge. I saw the papers of some of them.

Q: Will then you not be in a position to tell us whether or not they were Czechoslovakian citizens, Austrian citizens, Hungarians or Poles or whatever they may have been? You actually do not know, do you?

A: I know that some of them came from there. I saw no papers on them but I know that they were arrested in Germany.

Q: Well, now didn't any of these gypsies come from another concentration camp by transport to Dachau to be used in your experiments?

A: Almost all of them came from Buchenwald.

Q: Buchenwald? Not Auschwitz?

A: I have heard from Pillwein that some of them were alleged to have been in Auschwitz. But that transport which arrived for me came from Buchenwald.

Q: They actually volunteered for this experiment while at another concentration camp, is that right?

A: Yes, certainly.

Q: Were you informed as to what they actually volunteered for when they were in the other concentration camps?

A: I was told that they were asked whether they wished to participate in experiments involving hot water and that on being so asked that gypsies replied. I then told them, when they came to me what would go on in the experiments and asked them whether they wanted to participate or not. In other words, if they had been told in Buchenwald something that was not true I did learn of it then and they were given a chance to correct the false impression they had. I told them perfectly clearly what would go on and I asked them again if they wished to take part.

Q: Did you ever tell the subjects that it would be to their best interests if they underwent the experiments?

A: In what respect? It would have been to their interest to the extent that this would result in advantages to them but I never told them they had any personal interest in the experiments. I told them the experiments were being carried on in order to help people distressed at sea. I told them explicitly.

Q: And you told them there would be an advantage to them if they underwent the experiments?

A: I told them that before and after the experiments they would receive these extra rations, I told them the SS had told me they would

receive mitigation of their sentence after the experiments. I told them that after the experiments I would see to it that they would not have to work immediately and would receive additional food. If you're of the opinion that was an advantage for them then I told them it would be an advantage to them.

Q: Was the alternative obvious?

A: They could have said no.

Q: What would have happened to them?

A: What I would have done would have been that I should have returned them to the camp commandant and asked the camp commandant who was going to take their place. It was entirely indifferent to me who was the experimental subject in these experiments. I had no special group in mind.

Q: Were the experimental subjects certain of the consequences that would develop had they refused to undergo the experiments?

A: I was never asked about that. I was not an experimental subject. I can say that if any experimental subject had said no to me I should not have done anything to him. What opinions the experimental subjects had themselves I do not know. At any rate I did not threaten them or put up any barriers.

Q: Kindly tell the Tribunal the names of the three Frenchmen who worked with you in this experimental camp?

A: One was named Christian.

Q: Yes.

A: One was named Senes.

Q: Still that person,

A: S-o-n-e-s. And one was named Baidieret.

Q: Tell us the names of the three Luftwaffe officers?

A: One was named Dr. Lorenz, and Dr. Schuster, and one Dr. Forsterling.

Q: Tell us the names of the three military prisoner nurses.

A: From the Luftwaffe or from among the prisoners?

Q: From among the prisoners.

A: Pillwein.

Q: Yes.

A: Corlick.

Q: Yes.

A: And that was all I had.

Q: Did you have any other employees who speak at this experimental station or is that the entire complement?

A: There was a Spanish chemist whose name I have forgotten and then on occasions a man who worked in Plechner's laboratory worked for me although he was not one of my assistants. A young B.S. or Bachelor of Chemistry from Lehigh I believe, occasionally did chores for me. I can't recall his name either.

Q: How many of these people you have mentioned were also medical lecturers?

A: The three men from the Lehigh were M.Ds.

Q: Did they work a long hours as you did. That is, from 7 a.m. to 10 a.m. or 11 p.m.?

A: Yes.

Q: All, if you have all your men working the same number of hours, that is from 7 to 10 or 11?



A. We doctors did work those hours. The nurses and the medical students spelled each other off.

Q. I see. Then the medical students more or less had watches, so to speak. One would be on watch at night and the other in the day time, is that correct?

A. The students helped me in analyzing the blood samples. They took measurements of blood pressure. They analyzed the urine - measured the specific gravity of the urine, etc., whereas, for the night duty, the members of the Luftwaffe were used.

Q. Well, who served after the members of the Luftwaffe left at 10:00 or 11:00 PM? Who was on duty between that hour and 7:00 AM in the morning when you came?

A. The Luftwaffe assistants did only night duty.

Q. In other words, the Luftwaffe doctors stayed on duty all night long?

A. The Luftwaffe medics were the ones who stayed all night.

Q. Now, isn't it true medically, doctor, that delirium in organic or toxic conditions usually comes out at night? Comes on at night?

A. Delirium occurs when the cause of the delirium comes about whether that be day or night, presupposing that delirium occurs at all.

Q. Isn't it more apt to be more severe in the evening hours than in the daylight hours? That's a matter of common knowledge, isn't it, even for the layman?

A. That is true. However, delirium are unpleasant whenever they occur, but let me reassure you by saying that the medics who had the night duty had been carrying out that night duty for years and years with our soldiers in our hospitals. Moreover, I told you that the medical students,

one of whom had been in school for nine semesters, were used to this work and I told them that they were to call me as soon as there was any need for me, particularly in case there was any delirium. However, no cases of delirium occurred.

Q. Well, at any event, you were not in a position to know the worst mental symptoms among your subjects, except of apathy, inasmuch as you were not on duty during the late evening hours? Is that right?

A. If a serious symptom had occurred during the night I should have been on hand in five minutes.

Q. Where did you live?

A. I lived in a barracks adjacent to the concentration camp in the SS camp.

Q. You didn't live in the center of the village of Dachau?

A. No.

Q. Do you know Josef Vorlicek?

A. Vorlicek?

A. Yes.

Q. Yes, I told you he was a nurse at my station.

Q. He worked in your laboratory?

A. Vorlicek was a nurse at the experimental station. He worked in the sick ward.

Q. Did he see the subjects used?

A. Why, of course.

Q. Was he in a position to talk to them?

A. He had to talk to them. He was a nurse at this station. This Vorlicek fellow was also from Vienna and was brought to the station by Pillwein.

Q. Was he a reputable sort of fellow?

A. I never heard anything to his detriment.

Q. Did you ever have to chastise him for some of his actions in the line of duty?

A. Not that I can recall. If he had done something he shouldn't I certainly should have chastised him.

Q. Do you recall the rag incident?

A. I don't know what you are talking about, at the moment.

Q. Didn't Vorlick, at one time, spill some water on the floor and then wipe it up with a rag and, rather negligently, forget to remove the rag from the experimental station and the inmates were allowed to suck the water from the rag?

A. It happened several times, of course, because of some one's thoughtlessness that water was left lying around on a damp cloth, and I always told them that that was forbidden. I forbade that strictly because I didn't want water to appear in the experimental room and, if Vorlick left water standing around on a damp cloth, I certainly reprimanded him, I can assure you, because he, like every other nurse or any one else who had something to do there, was under orders not to leave water standing around in the experimental room.

Q. What did you say to Vorlick?

A. I probably told him that that was forbidden and I might have said "I'd like to know what you would do if you were very thirsty and saw water sitting around all the time." I presume that I told him something to that effect, but I don't recall any specific episode. It happened, on occasions, that such thoughtlessness took place and that water was left in the experimental room.

Q. Did you ever threaten to use Vorlick in an experiment.

Q. I believe that I certainly did not. I was more than satisfied with the number of experimental subjects that I had and wished to have no more. The work that I had with these 4 was quite enough.

Q. Let us look at Document No. 3283, Your Honor, which will be offered for identification as Prosecution Exhibit #308. This is an affidavit of the Kurec Vorlicek. This is an affidavit that is dated Vienna, 9 May 1947.

"Before me appears Herr Josef Vorlicek, residing in Vienna XVIII, 24 Geymullergasse, 35 years old, married, a driver, and makes the sworn statement as follows:"

I will skip the oath and proceed with the third paragraph.

"After having been arrested by the Gestapo in the year 1939, and after having been sentenced to and having served four years of penal servitude, I was sent to Dachau. I became assistant-nurse in Professor Seiglbosch's experimental block in March, 1944. After the incident with the soaked soiling-cloth, when the human experimental subjects and confessed how they got the water, Professor Seiglbosch threatened to use me as well as a guinea pig if it would happen again. I took this threat for granted, and the incident did not happen again. In the course of the experiments, a very sick man was transferred to the typhoid block. After the experiments, the human experimental subjects were transferred partly to the overcrowded labor blocks, partly to the outdoor labor squads. The outdoor labor squads were very bad because the work there was harder and there was less food than in the camp.

THE PRESIDENT (Interrupting): Counsel, I am unable to find in this document headed up to us, Document #3282, the portion which you are reading.

MR. HARDY: Just a moment, Your Honor, it may be that I



Court 1  
June 10--a-16-6-HD-Karrow-Brown.

have handed you the wrong document. I'm sorry. Just a moment.

Yes, I have handed you the wrong document. I have two documents from Josef Vorlicek. One's 3283, the other is 3282.

THE PRESIDENT: We have Document #3232.

MR. HARBY: Document #3282 will be offered as 508 and 3283 will be offered as 509, Your Honor. Both these affidavits are from the same affiant. One takes in a little more information than the other. I am referring now to Document #3283.

THE PRESIDENT: That's the one we have not received.

DR. STEINHAUER: Mr. President, I object to the submission of both of these documents, for it cannot be seen from the document who took the affidavit from the affiant. It starts out in the first sentence "Before me by virtue Here Joseph Verlicock." I certainly want to know who that "me" is. The date is 9 May 1947. I ask that I be told who took this affidavit and I wish also to be sure the signature is certified, that is correct but it says "Before me" and doesn't say who "me" is. Now, consequently I want an opportunity to cross-examine Verlicock. This man was known in January to the Prosecution from the police record but he was not brought as a witness. I must protest against that. The police records are available to the Tribunal and to the prosecution, and he could have been brought at that time. We all know what he was charged with, and I want to rely for Verlicock being brought to Nuremberg as a witness.

MR. HARDY: Verlicock is on his way. He will be here next week. These documents are in due order, before a Notary and the signatures are sworn to, and are in the hands of the Defendant and have the signature of the Notary thereon.

THE PRESIDENT: Counsel for the Prosecution stated the witness Verlicock will be in Nuremberg next week and appear before the Tribunal. The documents have obviously been sworn to before the Notary, B. Isani. His name appears as having administered the oath to the document. The documents are in order.

Q: Now, in Document 3283, which is called for identification Prosecution Exhibit 509, I will now refer to the next to the last sentence from the bottom in the first page, and I quote:

"From these experimental subjects were citizens of all nations; Czechs, Austrians, Germans, Hungarians, Poles, but no Jews. I remember the Poles and Czechs very well because I talked in the Czech language with the latter. These experimental subjects told me that they had been requested in Auschwitz to volunteer for a 'soft job,' but that were not allowed to do so. They were surprised and frightened when they learned on arrival at Block 1 at Dachau that medical experiments were concerned. They stated to

have nevertheless been forced to undergo these experiments, and they were  
murdered when a sign of a revolt appeared among them. Professor  
Seigelboeck himself told them: 'It is in your interest to undergo these  
experiments because if everything turns out alright, you will get a good  
detail.' The alternative was obvious. I knew from my own experience that  
Professor Seigelboeck meant such threats in earnest, since I also took such  
threats against myself seriously." Do you remember these instances,  
Doctor?

A: I have already said that it is possible that Verlicek left water  
lying around and perhaps I put it in the way he says, -- but if he construed  
that as a threat on my part to take him into the experiment. -- He says  
the alternative was obvious. "I knew from my own experiences that  
Professor Seigelboeck meant such threats in earnest, since I also took  
such threats against myself seriously." In other words, he took my threats  
against him seriously. These grounds of his don't seem very serious to me.  
I never told the experimental subjects it was in their interest to submit  
to the experiments, nor did I say "if everything turns out alright you  
will get a good detail." Verlicek was not present when the experiments  
started consequently he cannot know what I did with the experimental  
subjects a few weeks earlier. I told the experimental subjects if they  
did the experiment well; if everything came out alright, then I would  
try to get easier work for them. That is what I told them. I never  
forced anyone to submit to these experiments and there were signs of a  
revolt not for the reasons he gave but this revolt which was the only  
revolt that took place when they refused to give their extra rations.  
The inside revolt against not getting the food they were promised.  
That was that hunger revolt. I don't know what will become of this  
further; it might be a revolt which spread throughout the camp with 100  
casualties. I can only tell you what took place. I didn't tell the experi-  
mental subjects it is in your interest to undergo the experiments. What  
I did tell them was, if they did undergo an experiment they would receive the  
extra rations promise. That I never threatened to use Verlicek as an

experimental subject was certainly not correct. I took Verlicsek down to the station only because Piliwein asked me to do so because he was a Viennese, and in this way he got out of his work, I think, and into the hospital which was something he wanted very much.

Q: What is your thought, Doctor?

A: For him this I fear, although I don't really need him he has put this understanding of his down on paper.

Q: Is it necessary to keep the subjects confined when you are using them for such water experiments, must the doors be locked and the guards be posted?

Q: The experimental subjects were locked in when the experiment began. That was necessary. They should have been locked in a lot better than they were because then they would have had no opportunity at all to get fresh water on the side.

Q: That talks to the value of the experiments, doesn't it?

A: If you read medical literature you will see that thirst experiments are always carried on behind locked doors. That is not a special characteristic of the thirst experiments in Dachau.

Q: Professor Weikert didn't carry it on behind locked doors?

A: Professor Weikert had a lot of subjects.

Q: He didn't carry it on behind locked doors, did he?

A: No, Weikert didn't, but there are numerous cases of thirst experiments in literature which are carried on behind locked doors. If you really want to carry out a thirst experiment correctly you have to make it so that experiment subjects do not have access to water.

Q: Then these experiment subjects actually were locked into the experimental station, the doors were locked and guards —

A: There were no guards. The door to the experimental room was locked.

Q: Were there any watchers?

A: On the experimental station there were always nurses, day and night.

Q: I note in Document ND 910 which has been introduced by the Prosecution, page 140, the witness Bauer states in his affidavit that several similar experiments were carried out forcibly. Is he incorrect



in that assumption too?

A: He is certainly wrong in that assumption.

Q: Can you tell me how you could ascertain whether or not these subjects were getting water was that because their urinary output would be less than. It should have been had they been drinking something?

A: You can deduce that water has been drunk in several ways, you can judge from the samples of Urine and the samples of blood, and you can deduce it from the weight of the experimental subject.

Q: Is it customary for the person who has volunteered for an experiment to throw some of his urine away to deceive you. You stated on direct examination that some of these subjects threw their urine away. If that be so it would be next to impossible to determine the excretion of each one, wouldn't it?

A: Yes, it is impossible under those conditions. I have already said that these people were interested in receiving the cigarettes I mentioned. That was a mistake on my part. I terribly regret that I promised them in exchange. For that reason they drank fresh water thinking they would be able to stand the experiment longer and this would give them more cigarettes. That was their motive.

Q: That is a trick act of a volunteer to throw away his urine, is it?

A: In this case where the cigarette cigarettes it is perhaps not quite customary, but it is understandable.

Q. Now, you promised all these people better food; didn't you as a reward for the experiment?

A. Yes.

Q. Why didn't you give it to them?

A. As long as they were with me they did get it and after they were released from my station and the station was closed, I demanded that they should receive the food in the future and I was told that they were.

Q. Vorlicak says on Page 2 of his affidavit, NO-3282 that good food after the experiments was also promised to them, but these promises were not kept; do you know whether or not the promises were kept?

A. I only know that on my reiterated request this promise was made to me. I then left Dachau and assumed the promise would be kept. If I had known that such a thing was possible, namely that the promise would not be kept, I should probably have attempted to find even more assurances that the promise would be kept, but there was nothing else I could do. The Chief Physician promised me that this was ordered and if he says the camp commander will be told they should receive extra calories and extra food and if in the office of the camp, I say this is the list of people who should receive extra rations, I of course had to rely on that statement as I could not stay in Dachau.

Q. Yes, but the volunteers relied on your statement, didn't they? When you left you did not care whether or not they received their food; isn't that right?

A. I did care, I made efforts to see to it that this request of mine reached the competent offices and I was told that these promises would be kept by the office.

Q. Well now, why did you not bring the food with you and reward them yourself after the experiments? I notice

rather interestingly in the document you introduced on page 103 of your Document Book 2 these documents concerning the food allocated to you by the Luftwaffe, that you only got on one food for seven days for 32 men and you need 44 men in these experiments and the experiments lasted from 18 July to 18 September; You did not seem to make much of an effort to feed these poor fellows then, you left them and did not care if they got their promised food or did you get other shipments of food?

A. If you look at this document you will see that these 32 persons were called the first experimental group, that was the first shipment of food I received from the air field. I did not save the other receipts because in July of 1944 I did not think that in June of 1947 I would have to produce them in front of the trial. I saved them because I needed them as a basis for the calculation of the percentage of salt contained in the food. I can assure you that this amount of food, so long as I was there, was delivered by the Luftwaffe, with the exception of those one or two days of irregularities which I have already spoken of. Then I did not give the subjects Luftwaffe food, but asked that they receive extra rations from the concentration camp, and this was promised to me. If I had known that they would not receive these extra rations from the concentration camp after I left, I would have applied to the air field and seen that the Luftwaffe rations were delivered.

Q. Why did you not call Becker-Freyse and say, "They are not fulfilling their obligations here; I have been promised these individuals good food; they have not been getting it;" could you not contact Becker-Freyse or Schneider, the people who assigned you and ordered you

down to Dachau?

A. Apparently you misunderstood me. For two days the delivery was delayed because the air field was bombed. Becker-Freyburg and Prof. Schroeder could not have prevented this, but two days later this food was delivered, and as long as I was there the food deliveries were in order.

Q. Now, Pillwein says in his affidavit, which is NO-912, found in Document Book No. 5 on page 30; this will be on page 31, the second paragraph:

"When the people were chosen for these experiments, they were also promised better care for some time. In reality, this care was only accorded patients in the first group; all the others received water and skimmed milk for two days after the end of the experiment and about the third day were placed on the normal camp diet. The first group received a meat sausage, bread, butter, cheese, margarine, and 2 cigarettes for 4 to 5 days. I remember that disagreements arose between the camp administration and the competent authorities of the Luftwaffe, since the Luftwaffe did not make sufficient provisions available for the diet. The ones who bore the brunt of this were naturally the participants."

Now, isn't it evident from Pillwein, from Verliock and these others, Tschafetz, that you did not fulfill your promise even during the course of the experiments?

A. During the experiment, when the second group had finished the experiment, I did not receive the food from the air field for the reasons I have already given you. Rather, I did not get it immediately. If they had been fed by the camp I should not have had any difficulties with the SS, as that was under the direction of the SS. I did have difficulties with the SS, because I asked them to give



no food of this caloric content, and this caused difficulties since they said they could not do that on credit and would have to have authorization from the Luftwaffe. After two or three days I received this food delivery, and from then on the experimental subjects did receive this diet.

Q. That is your explanation of the accusation made by Pillwein?

A. Yes.

Q. I assume, of course, that you flatly deny any deaths in the course of these experiments?

A. I have nothing to deny; there were no deaths in these experiments, nor can any deaths have taken place later as a result of these experiments; that is impossible.

Q. Did you know Tschofenig?

A. I did not know him; I knew his name and where he came from; and I learned later that he was Capo of the X-ray station, and therefore I must have spoken to him once or twice.

Q. Do you know what his duties were at the X-ray station?

A. Presumably he took care of the machinery there. I don't know.

Q. Was he ever in a position to have X-rayed any of the subjects you used in the course of your sea-water experiments?

A. Probably Tschofenig was present when the subjects were X-rayed on arrival and then later I sent over a couple of people for an X-ray check-up, and he was probably present then, too.

Q. Then he was in a position to have X-rayed or have seen subjects X-rayed?

A. I assume so.

Q. However, you exclude the possibility that one of the subjects used in your experiments died three days after leaving your experimental block?

A. At the beginning I received X-rays of the subjects when the subjects themselves came to me, two of these subjects had affections of the lungs. I did not keep these two people in my experimental station, but sent them directly to the lung department of the hospital. These were not experimental subjects of mine, they were people who came along on the transport, in whom the X-rays found a tuberculosis of the lungs and whom I turned over to the hospital for treatment. I saw these experimental subjects for perhaps half an hour and then had them transferred, as I said in my direct examination. Now, you cannot hold me responsible for people with lung diseases being on the transport. I eliminated them immediately. If I had not had them X-rayed immediately, this tuberculosis of the lungs would probably not have been discovered at all.

Q. Can a person become too weak to walk as a result of being admitted or subjected to sea water experiments?

A. Thirst brings about a certain weakness in the muscles.

Q. Now, you say that these persons that were suffering from a lung disease you never used in your experiments?

A. No.

Q. How many X-rays does it take to determine whether or not you can use a person in your experiments; one?

A. One X-ray is enough for the preliminary examination yes.

Q. Well, let us turn to Document NO-3342, which is offered for identification as Prosecution Exhibit 510. Would you kindly return those other two to me, Doctor? Do the interpreters have copies of this affidavit?

This is another affidavit from the affiant Josef Tachofenig, dated Klagenfurt, 14 May 1947. He states in the third paragraph of this affidavit as follows:

"In the experiments of Dr. BEIGELBOECK, which took place in the summer of 1944 in DACHAU, only healthy gypsies were used at first. I know that because I received the whole transport, which came from SACHSENHAUSEN, in the X-ray ward for lung examination. Altogether about 60 gypsies were used, chosen from a group of 80 or 90. They were certainly not volunteers, because they all wished to evade it. I noticed that from their conduct during the assignment. As regards their nationality, I only know that they were gypsies; they were described by race and not by nationality. The 20 or 30 who were not used were sent back for health reasons and were excluded from the experiments; they remained in the sick quarter. During the experiments, which lasted about 6 weeks, the state of health of the originally healthy participants deteriorated rapidly. One went mad and was taken in a strait jacket to the mental ward in the middle of the period of the experiments. I do not know what happened there. From my general experience of camps, I know that if he fell into good hands he might have got over it, if he did not get into a sick transport.

During the experiments I again made X-ray photographs in a few cases, about the middle of the experiments, and in a few cases they were made by Dr. BEIGELBOECK himself, because he did not trust my findings; for I, as I am glad to admit, had in a few cases given him findings which had the purpose of saving the people from the continuation of the experiments.

At the end of the experiments the experimental subjects were divided into two groups, namely those who were fit to

work and those who were sick, by the responsible physician Dr. BEIGSLEROCK himself. Those who were fit to work were directly released for labor immediately after the termination of the experiments and were employed in various labor squads. Those who were not fit to work, about 20 people, those were the obvious invalids, who were manifestly incapable of working and sick, were transferred from the experimental station into different sections of the General Prisoner Hospital. Amongst these were a number who were very weakened and apparently dangerously ill, and whose survival seemed unlikely.

I know this because I had to radiograph all the people coming into the prisoner hospital and know that these people came from the experimental station. I had radiographed all of them once and some of them twice already, and therefore I knew them. Moreover it could be seen from the patients' charts where they came from.



"Amongst these various people who remained in the prisoner hospital three went into the 'internal' section; I can no longer remember their names. I know from my own experience of one death case amongst the three who went to the 'internal' section. This was a man about 1.68 meters in height. I still remember him in particular because he was brought into my x-ray ward on a stretcher, since he was too weak to walk any more. I am certain that on the day the experiments were completed he was transferred from the Beiglboeck ward to the 'internal' ward and next day came to be x-rayed as a normal prisoner hospital patient. I recognized him immediately as I had already x-rayed him twice before when he was still with Beiglboeck.

"I know that this man died three days later. Our x-ray ward received the news of his death from the office. I had to send the findings according to whether the patient was dead or still lived, either to the depot (in case death occurred) or to the ward (if the patient still lived).

"I remember exactly that I reported this finding to the depot as I had been informed of his death. I remember this one case so particularly well because the lung finding was in order, that is, normal and also that he did not suffer from other pathological symptoms. Therefore, I knew that this man died as a direct result of the experiments three days after they ended.

"The others who were unfit to work, about seventeen, were divided between various other prisoner hospitals; a few were handed over to the 'invalids' block and I do not know that because of them.

"From my general experience of camps I assume that about 30% did not survive the 'invalids' block and other fatigues due to their weakened condition as a result of the experiments. Without the experiments their chances of surviving the camp would certainly have been much better since they were originally healthy prisoners who formed Dr. Beiglboeck's experimental group.

"Whether experimental subjects already died during the experiments in Beiglboeck's station itself I do not know for I was now allowed in the experimental station itself and the covering up of such cases of death in experimental stations was always very clever."

Signed "Josef Tschefenig."

Now, Dr. Beiglboeck, do you recall the case of that individual?

DR. BEIGLBOECK: Mr. President, I wish to have this witness for cross examination.

MR. HARDY: I will be glad to, your Honor. He will be here next week also.

THE PRESIDENT: Counsel for the prosecution states that the witness will be here next week.

BY MR. HARDY:

Q. Now, do you still maintain that none of these experimental subjects died after they left your experimental station or do you know whether or not they did?

A. Yes, I do. No one certainly died of the experiments or of consequences of them. There were not sick persons in my experimental group. I had given them a very careful examination before the experiments and afterwards. What Tschefenig is talking about here is completely incomprehensible to me. I can't imagine that, only in my fantasy. To imagine what he is talking about is just too much to ask of me. Tschefenig didn't know anything about my experimental station at all.

Q. Dr. Beiglboeck, as I understand it, you considered these experiments to be purely a Luftwaffe matter. Is that correct?

A. Yes.

Q. No association whatsoever with the SS?

A. They had to do with the SS to the extent that the SS made the rooms available and I was there more or less as a guest. The SS had no influence on the course of the experiments.

Q. The SS merely provided the subjects and the space in the concentration camp?

A. That is right.

Q. Himmler had no part in the initiation of the experiments or the conduct of the experiments?

A. What I know about Himmler's part in it is that he approved the experiments.

Q. Now, do I understand you correctly, that your testimony is to the effect that there is no danger in the drinking of sea water?

A. I said that if you drink sea water and these experiments are under observation then one is perfectly capable of interrupting the experiment when the danger zone is reached. I didn't say that it was not dangerous to drink sea water. That depends, of course. Under certain conditions drinking sea water is dangerous and can be fatal.

Q. And among sea farers the dangerousness of consumption of sea water is a well known and accepted fact. Is that right?

A. Of course, it is clear and well known that shipwrecked persons have had very unpleasant experiences from drinking sea water because they did so in uncontrolled quantities and because the important point is the quantity consumed.

Q. Now, in your self-experiment that you conducted prior to the experiment on the inmates, how long did you drink sea water?

A. Four and a half days.

Q. How many cc's per day?

A. Half a liter.

Q. Five hundred cc's?

A. Five hundred cc's. That is right.

Q. Did you eat any food?

A. I ate sea emergency rations.

Q. And you drank exclusively sea water--no other water?

A. Of course.

Q. How long did you have the experimental subjects remain on exclusive sea water?

A. That depended and it depended on how the experiment was carried out. Some of the experiments which were carried out properly, were interrupted on the fourth or fifth day. Those who did drink fresh water in the meantime kept the experiment up longer. In this experiment it depends on how much water is lost. If a subject compensates for his loss of water by drinking fresh water then, of course he comes out in a very good condition.

Q. What was the longest stretch wherein a person or inmate drank sea water exclusively in the experiment? Eight days? Nine?

A. I believe for or five days. I can't give you any exact answer to that just at the moment because I have to look that up in my notes.

Q. We will get into that later, doctor. Did they also get emergency sea rations?

A. Yes.

Q. The same as you had?

A. Yes.

Q. How many calories in an emergency ration kit?

A. In the emergency ration for four days there are twenty-four hundred calories. They got a little bit more than that because I had a little more than I needed. They received roughly eight hundred calories a day.

Q. How long can a person drink five hundred cc's of sea water—how many days?

A. You mean before reaching the danger zone?

Q. Yes.

A. You could calculate that at seven days.

Q. How long did the subjects drink it?

A. Those who drank no fresh water did not drink it under any circumstances longer than six days and I believe there were none who carried it on further than five days without drinking fresh water.

Q. How long can a person drink a thousand cc's of sea water?



A Four and a half days.

Q That long?

A Until you reach the danger zone.

Q That long, four and a half to five days?

A Yes, four and a half days.

Q Well, that is a considerable length of time, if you can drink 1000 cc's of sea water in four and a half days, and you can only drink 500 cc's in six days?

A That depends upon the fact that the elimination of water through the skin and the lungs is the same in both cases, and the additional sea water only leads to an additional elimination of urine. This additional quantity of urine that is eliminated — whether a person drinks 1000 cc's is not so really very large over the amount when drinking 500 cc's; it amounts to roughly 350 cc's a day.

Q Wouldn't there be twice the drain on the bodies water and dehydrate the person faster if he was drinking 1000 cc's per day as opposed to 500 cc's?

A I just told you what happened. A greater quantity of urine is lost, and the difference between the quantities when drinking 1000 and 500 cc's is not so very important because the ways in which water is otherwise eliminated throughout the body, namely, through the skin and lungs remain the same. It can even be assumed that with 1000 cc's the amount is less. The dryer the skin is, the less water it excretes....

Q How long did the subjects drink 1000 cc's of sea water?

A I just told you, according to theoretical calculations, if experimental subjects could live four and a half to five days, drinking sea water and nothing else until he reached the danger zone of a 10 percent loss of body water — danger to life comes with the loss of 30 percent, and that is roughly after 12 days.

Q How many days did your subjects drink 1000 cc's of sea water?

A The experimental subjects, well, in the group that drank 1000 cc's, I had none who went four days without drinking fresh water.

However, none of the experiments made with this group was useful. On the second or third day, these people began to drink fresh water by the litre. So, the duration of the experiment is unimportant in this case. The importance is not how long the experiments lasted but how long it lasted only with sea water. And, if he drank only sea water, then the experiment had to be interrupted after four days, but if he drank a lot of fresh water, then under some circumstances these experiments may last as long as a month.

Q What was the highest temperature you reached in these experiments?

A During the experiments, as far as I remember — you probably know this better than I do because you have my notes at the moment.

Q 37.8 Centigrade; that is not very high is it? Is that a dangerous temperature?

A Certainly not.

Q Is that above normal?

A Somewhat more than normal, yes.

Q Well, now, when you stated on direct examination, something that interested me, that when you gave this water to the inmates, that you had to drink it in front of the subjects yourself; now, why was that?

A That was not necessary, I considered it expedient.

Q What was the reason for you drinking it first in front of the subjects? I do not get the significance of that statement, Doctor? Was it because they thought you were fooling them and insisted you try it first?

A We doctors, we are used to the fact that medicines given to patients which are somewhat foreign to him, and in order to awaken his confidence in this medicine, we take some of it ourselves; that is the customary procedure in clinics and particularly in treating children: that was the reason I did that. There are lots of people when they hear the word sea water, they imagine Lord knows how dangerous a substance it is, and in order to convince them that sea water is really

something that is potable, I drank it in their presence.

Q Now, you spoke of murder rumors in the camp in connection with the sea water experiment; what was that about?

A I never said anything about murder rumors, as far as I know, I said there were rumors afoot, and since I have had considerable experience in such camps, I can assure you that all sorts of rumors arise in such camps or prisons, and arising from the most innocent of circumstances; that it is on the basis of such rumors that such "memories" as this last affidavit you put in is based.

Q What was the murder rumor in camp? Was it a prevalent rumor that people were being murdered in your station, is that what you mean?

A I know nothing of a murder rumor. I am hearing now for the first time there was any such rumor in the camp. I said that Tachofornig could have based his statement that somebody went mad only on rumors but not on knowledge; that is all I said; that does not mean that there were murder rumors current in the camp.

Q How long did you observe each experimental subject after they had completed their experiment? Three or four weeks?

A The first group as far as I recall now, was 16 days, was under my observation for 16 days after the experiment was concluded, and the other group 12 to 14 days.

Q You observed each one of them for that length of time?

A Yes.

Q Did you keep them right in your experimental station all that time?

A Of course.

Q When were they turned back to the hospital or the labor groups?

A I released the experimental subjects on the 15th of September when the experimental station was broken up.

Q Did you ever return to Dachau thereafter to see how they were getting along; to see whether or not they had received their pardons and

and were getting their fulfillment of promises that you made?

A I assumed as a matter of course that those promises would be kept, at that time, and I asked that those subjects should be given a physical examination subsequently; this was also promised me. It was very improbable that any symptoms should be developed but should any develop I wished to be informed of them.

Q Now, this chart you have submitted to the Tribunal, drawn by Fritz Pillwein, giving the location of the various blocks in the camp. Do you have that before you there?

A Yes.

Q Now, we will note the Tribunal has it before them. I have a few questions to ask.

I may be of interest to the Tribunal in connection with this map or chart, you will note the Malaria Station of Schilling's and the name Vieweg in parenthesis.

Directly to the left of that is a block containing your experimental station, right?

A Yes.

Q What was between the two blocks, a street?

A A court; that was the court yard in which my experimental subjects walked around, and that is where I spoke with the subjects, and this is the court yard in which Vieweg was not in a position to acquire enough information about what went on in my experimental station.

Q Vieweg could see in that court yard could he not?

A Of course, he could; his windows give onto this court yard.

Q Well, now look up to the front of the block containing your experimental station.

If your Honors will refer to the photostatic copies of the German it gives a much more accurate view of the situation in as much as that is the affiant's draft, and that is a translation which is out of proportion to the original.



Now, in your block there seems to be a doorway between the toilet and washroom; is that correct? That is in the right hand corner of the block, is that a doorway going out into the street?

A The exits, there were two exits from my experimental station; one through the room where the name "Mediziner" is written, that went down to the court yard; and, the other exit went past the washroom.

Q The other exit went past the washroom; that is right here (indicating)?

A Yes.

Q What was right here (indicating)? In between the Malaria Station and your block, we have a court yard, and we have a line drawn here between the court yard and the block street. Now, what was here, a wire fencing? (indicating)—

JUDGE SLEPINE: (Interposing) Mr. Hardy, I would suggest that perhaps when you say what was here or what was there, or what was over there, that when you begin to read the written record it does not convey very much information unless, when you are directing those question, you at the same time, perhaps will say: What is here, the point I now mark "A"; what is here, the point I now mark "B". That is just a suggestion.

MR. VARDY: Thank you, your Honor.

You will note from the chart, Dr. Baighoeck, the malarie station - the block that has Vieweg's name in it. Now we go to the left hand corner. We mark that point A. We follow that over to your experimental station. We mark that point B. Now between A and B that is the point between, or the line drawn between the yard and the block street, what is this supposed to represent, this line? Does that represent a wire fence or does that represent a brick wall or does that represent some sort of obstruction?

A A wooden wall.

Q Wooden wall?

A Yes.

Q Could you see over the wall?

A No.

Q You are certain it was wooden and not wire? You are certain of that?

A I am quite certain it was wooden.

Q You are certain it was not wire?

A Yes.

Q Would it have been possible to stand in the malarie station and have seen over that wall, be able to view people passing up the block street?

A If you stood on the roof of the malarie station you might.

Q Didn't Vieweg tell us that he could from his position in the malarie station see the morgue?

A If he was in his malarie station he could see anything. That was impossible.

Q You don't think he could see the morgue from the malarie station?

A No, but he could see it if he were somewhere else in the camp. He wasn't locked up in the malarie station. But from this

malaria laboratory in which he apparently was, and I assume that is where Vieweg stayed in his laboratory, when he was in there he could not see into that part of the hospital.

Q Assume that it became necessary for you to carry one of your experimental subjects to the morgue. I am not suggesting that your experimental subject was dead but assume hypothetically that you had to carry an experimental subject to the morgue, would you carry him through the passageway or exit facing the main corridor of the hospital block or would you take him out through the exit facing the malaria station?

A I would never carry a living person to the morgue. And, for that reason I never had any reason to bother myself about this little problem. Consequently I don't know what I should have done.

Q Well, how did you take your subjects to the x-ray station, through the door facing the main corridor or through the door facing the malaria station?

A Where it says "wash room". They were taken there along the course of the arrow, then to the right where it says "Labor". They were taken there. They were taken in between where it says "Revier-station" and "Labor". And then they were taken to the barracks where the x-ray station was.

Q How many floors did each barracks have, was it a one story, two story, or three story building?

A Only one.

Q Only one. Would it be possible to stand at a point in front of the Eye, Ear, Nose & Throat station on the block street and view persons coming to your experimental station or coming out of your experimental station?

A If you were in the Eye station, the ambulant patients of the hospital were in there waiting for medical examination. Now in there where it says "Gang" that means corridor, you would have to stand there to see what was being carried anywhere.

Q. But in no event was the view obstructed on the Block  
Stressco. That wasn't covered with a roof, was it?

A. That I can't tell you for sure on this Block Street, I  
think it was open to the sky.

Q. This is a good breaking point, your Honor.

THE PRESIDENT: The Tribunal will now be in recess until 0930  
o'clock tomorrow morning.



Official transcript of the American Military Tribunal in the matter of the United States of America, against Karl Brandt, et al, defendants, sitting at Nurnberg, Germany, on 11 June 1947, Justice Seals presiding.

THE MARSHAL: Persons in the court room will please find their seats.

The Honorable, the Judges of Military Tribunal I.

Military Tribunal I is now in session. God save the United States of America and this honorable Tribunal.

There will be order in the court room.

THE PRESIDENT: Mr. Marshal, will you ascertain if the defendants are all present in court?

THE MARSHAL: May it please your Honor, all the defendants are present in the court room.

THE PRESIDENT: The Secretary-General will note for the record the presence of all the defendants in Court.

For the information of all concerned the Tribunal desires to announce that this afternoon it will convene at 1:30 o'clock at the usual time and will recess at 3 o'clock, this afternoon.

Counsel may proceed.

DR. BEIGLBOECK - Resumed

CROSS EXAMINATION - (Continued)

BY MR. HARDY:

Q. Professor Beiglboeck, in the testimony of Vieweg before this Tribunal he elicited that he saw three stretchers leaving your experimental station carrying bodies to the morgue. Do you recall that testimony?

Q. Now on page 23 of your Document Book No. 1, Beiglboeck Exhibit 19, we see therein a letter addressed to your mother and father-in-law.

A. Parents-in-law, yes.

Q. The third paragraph, the last sentence - would you kindly read that, please?

A. "My feelings are those of Pontius in sacred only it mattered less to him than to me."

Q. Who is Pontius?

A. The phrase "Pontius in sacred Kommen" is a German phrase, meaning that you find yourself involved in some action without knowing how you got yourself into that position. What I wanted to say was that I found myself obliged to carry out this assignment without doing anything to achieve this. So, quite unexpectedly and against my will, I found myself involved in an action that I didn't wish to pursue. This is a German proverb.

Q. This Pontius here has no connection in Biblical history to Pontius who was responsible for the conviction of three persons?

A. No. When you say Pontius it means he reached this position in which he found himself and he didn't want to do it. Also, let me add that Pontius Pilat did not have anything to do with the crucifixion of three people, the two thieves were crucified, without Pontius playing any part.

Q. Well, then, did three people actually die in your experiments that you really didn't want to happen?

A. Mr. Prosecutor, in my experiments nobody died, not one person and not three persons.

Q. Now, will you kindly tell us, Dr. Reiglboeck whether or not you would have published the results obtained in your experiments at Dachau in a Medical Journal?

A. If these results had been perfectly unexceptionable from a scientific point of view then I should have. As I already said, I had no particular scientific ambitions connected with these experiments and I have told you, I was glad when they were concluded and did not expect to receive any particular praise from them.

Q. Since you have been here in Eurnberg you have prepared several reports on the experiments based on records that you had in your possession and from your memory of the actual work conducted at Dachau. I

am going to pass up a photostatic copy of one of the reports prepared by you for identification. Will you tell me when you wrote that report?

4. I wrote this report after my first interrogation, writing it from memory without documentation.

4. Now, will you turn to the last page, Doctor, of that report? On the last page we find, 8 lines up from the bottom, the following words: "In exceptional cases also by means of administering water by a stomach sound". Do you find those words, Doctor?

A. Yes, I have it.

Q. Well now, in these experiments, is that an actual condition that existed as you have written in this report?

A. I drew up this report from memory at that time and I was able to remember what I had put into my concluding report and I remembered those cases of the subjects who had carried out the experimental series in an orderly way. There are some inaccuracies here because I had not concerned myself with this matter for two years and I put down everything in this report from memory. Consequently I can't swear that everything in it is correct. Some small details may be inaccurate, that I admit, but what I have reported here does, by and large correspond with what actually happened. I carried out examinations with a stomach sound for purely external reasons. I wanted to know whether sodium chloride could be eliminated by gastric fluids and, consequently, after the experiments were over I took this occasion to introduce water directly into the stomach without Rectrosc.

Q. Then that is your explanation for the necessity to give water by stomach sounds?

A. There was no necessity. I could have let them drink it. I had the stomach sound used so I could examine the gastric fluids because literature proves that after the consumption of sea-water there is an increased secretion of gastric fluid, and in order to check on that I used the stomach sound in, I think, five cases, and I did this because I happened to have the stomach sound lying right around at the time.

Q. Well, didn't that cause the subject considerable distress without any due cause inasmuch as the particular activity was unnecessary?

A. Sounding the stomach doesn't cause unpleasantness to anyone. It is a method that is used every day at least twenty times in the



clinic. The moment in which the stomach sound is introduced is perhaps a little unpleasant, but once it's in you can walk around with it in without its bothering you. It's one of the most harmless methods of examination that internal medicine can give witness to.

Q. It has always been my experience, in witnessing, that a patient is much disturbed by the insertion of the stomach tube. Could it have been that this subject was unable to drink the water because of unconsciousness?

A. In my experiments no subjects became unconscious, and if I had had a person who was unconscious then, of course, I shouldn't have put a stomach sound into him but should have chosen the much simpler method of giving him the fluid through a vein, because this is quicker. The intravenous injection of fluid brings about a more rapid thinning-out of the blood and this quenches the thirst, because thirst is nothing more than a consequence of the thickness of the body's blood. Now, you can see that there was no reason at all to introduce a stomach into a person even if he had been unconscious since the other way would have been much quicker.

Q. What patients did you give this water by sound to?

A. This was certainly in the second experimental series, one of the patients between 22 and 44, because, in the first group, I had no time to put in stomach sounds because taking care of the patients in other ways took up too much time.

Q. At the final meeting in Berlin in the Zoological Garden in October, 1944, did you report on the experiments as they actually were conducted or did you attempt to camouflage some of the results?

A. I concealed nothing. I described how the state of thirst developed, what the effects of sea-water are. I did this at rather great length and I particularly pointed out that the cases that had used Borstnit were no better than those who had drunk straight sea-water, and I particularly emphasized the effectiveness of the Schnofer

method in order to point up the contrast between the two groups and to break down the last of the opposition to use the Schaefer rather than the Berka method.

Q. Was Schaefer particularly alarmed when he discovered that you had used his method at Dachau?

A. I am not informed as to the spiritual life of Dr. Schaefer.

Q. Well, Schaefer was at the meeting, wasn't he?

A. Yes.

Q. You were there, weren't you? You reported?

A. Yes.

Q. What did Schaefer say when he found out you used his method at Dachau?

A. As far as I know, he didn't say anything.

Q. Was it your understanding that Schaefer knew you were to use his method at Dachau?

A. I didn't assume anything about this. I have already told you that Becker-Freysong told me that instead of a control group, with fresh water, we would have a control group with desalinated water. I do not know whether Schaefer before or during or after the experiments found out that his method was used. I can only repeat what he testified to here, namely that before the report he knew nothing about it. I had never spoken with Schaefer previously. I saw him for the first time at this conference, and do not know what he knew about it before.

Q. Would you kindly tell the Tribunal, Dr. Beiglböck, just what records Professor Volhardt studied in order to familiarize himself with this subject so that he was in a position to testify as an expert before this Tribunal?

A. Professor Volhardt saw my fever graphs which you now have.

Q. That is this group of graphs?

A. That's right. I extracted the important data from here and drew them up in a table and he looked at this table and checked on my

results from it.

Q. Did you give him any other material?

A. In addition, I only told him that the salt concentration in the urine rose. For this I had no original documentation, but I told him that from memory and I also told him what anybody might expect, namely, that the blood became thicker.

Q. What other records do you have in your possession besides these graphs and these two books? Do you have any other records?

A. No.

Q. Does defense counsel have any other records?

A. As far as I know, no.

Q. At any time, did either one of these books have a black cover?

A. Yes.

Q. Which one?

A. The one in your left hand.

Q. Can you tell me what happened to the cover of this book?

A. My counsel probably had it.

Q. Were the names of the subjects used in the experiments written in this book?

A. Yes.

Q. In the first two pages, I presume?

A. I think it was on the cover.

Q. Will you kindly look at the book to see if they are still there?

A. I don't have to look at it. I can see they are not there right away because the names were on the cover.

JUDGE SHORING: Mr. Hardy, if this matter becomes important before the Tribunal I would suggest that, for the sake of the record, you put some identifying mark on this book.

MR. HARDY: I intend to, Your Honor, but first I want to find out

where this evidence came from. I intend to mark it for identification later.

JUDGE SEBRING: It seems difficult to look at a cold record.

MR. HARDY: Your Honor, I would like to mark it later. The defense counsel may want to use it himself and may want to mark it with a defense number. I'll have to discuss it with him.

DR. STEINBAUER: I should like to say that these documents are some which I gave to the prosecution only for its information. I should like to have them back. I have not put them in evidence, and I still have to decide whether I intend to. At any rate, I can say that Professor Vollhardt did not see these two booklets. I showed them to Professors Alexander and Ivy and Mr. Hardy. I must object to their being used as incriminating evidence against my client so long as they have not been put to the Tribunal.

MR. HARDY: May it please Your Honor, inasmuch as defense counsel has asked for the return of the documents that he has presented to the prosecution for study, the prosecution duly requests that these documents be impounded by the Tribunal, be made records by the Tribunal, for use by either the prosecution or the defense. These documents purport to be original records made at Dachau during the course of the experiment. They are fitting absolutely into the proper evidence rule. They are not affidavits or hearsay. They are actual conditions at Dachau and recorded by the defendant himself. In many instances, these documents have been altered. The alterations may have been made at Dachau, they may have been made later. In view of the fact that they have been altered, the prosecution thinks it necessary that they be impounded by the Tribunal and if study of them is required by either defense or prosecution that study should be done before a commissioner. At this time, I wish to use the documents for the purpose of cross-examination. These documents were presented to Professor Vollhardt by the defense. Professor Vollhardt came here and testified



as an expert for the defense. His testimony was based solely on these charts. Due to that fact, I intend to use these charts today in cross-examination of the defendant Beiglbosck. In order to do the same, I would request the Tribunal to move from the bench down to the first defense counsel bench. We will have three microphones sent in. Defense counsel for Beiglbosck may sit beside the defendant and I will cross examine on the documents this morning. Inasmuch as the documents are not constructed so that they may be reproduced because of pencil notations, blue marks, red marks, etc., such a round table discussion of the Tribunal and the defendant and counsel will be necessary. I request that I be allowed to proceed, and if defense counsel requests the documents be returned to him the prosecution petitions the Tribunal to have them impounded.

DR. STEINBAUER: Your Honor, I myself intend to offer these documents to the Tribunal, so there was no reason to impound them. I simply wanted to offer them at the correct moment, and I have left them with the Prosecutor all this time. As I say, there is no reason to impound them. I want to repeat: Professor Volhard did not see these two booklets, particularly the one that had the black cover. If Mr. Hardy doesn't believe it I can produce three or four witnesses to prove it. I don't think that is necessary. I am making them available.

MR. HARDY: If I could be allowed to cross-examine the defendants using the documents, then at the completion of the cross-examination would be the time for the Tribunal to determine if they would impound the records. I can point out alterations in the documents, which I think have been made since the trials started. In view of that fact the original documents are altered. I do not contend the alterations were made by defense counsel, but inasmuch as they have been altered it is necessary that they be impounded so further alterations will not be made.

THE PRESIDENT: The Tribunal will now take the documents in its custody. They will be in the possession of the Tribunal from now on. They may be used for cross-examination, and under reasonable circumstances they will be subject to examination by either counsel under such rules as the Tribunal shall later announce. But from now on they are in the custody of the Tribunal until further order.

DR. STEINBAUER: It is perfectly agreeable to me. I simply want to say again that these two little booklets were never in the hands of Professor Volhard. Consequently, he didn't use them as a basis for his testimony.

MR. HARDY: Now that the problem is brought up I would like to put two or three questions to the defendant concerning these records.

BY MR. HARDY:

Q Can you tell us, Dr. Baiglboeck just where these records have been for the past two years. After you left Dachau in September of 1944 did

you take these records with you to Vienna?

A I took them with me and had them with me in Tarvisio until roughly the end of April 1945; then I put them in a trunk in which I had my books and other papers and gave this trunk to a family to keep for me, and it is from there they were fetched.

Q Who fetched them from that trunk?

A My counsel,

Q Did your counsel bring them here to Nurnberg?

A Yes.

Q Did you see them after they arrived in Nurnberg?

A I paged through them once.

Q And they have been in possession of your counsel since that time?

A Yes.

Q Now, are these the only records that your counsel brought to you from that trunk, that is these charts and these two books?

A Only the graphs and charts came from the trunk. I already had the two little booklets with me at Christmas. My counsel brought me the charts at Easter and the booklets at Christmas. The little books were not in the trunk.

Q Did you have any other records here in Nurnberg?

A Nothing else.

Q These are the only records?

A Yes.

Q Is the information in this booklet, the one which the black cover has been removed from, based on the charts and graphs?

A The two things were carried on side by side. The one is the laboratory book used in the experimental station, and the other booklet, the grey one, was in the laboratory in the Entomological Institute where the chemical analysis was carried out, namely the examination of the nitrogen. The fewer charts were made during the experiments.

Q Could an analysis be reached as to your experiments by referring

to the graphs and charts without reference to these two booklets?

A The most important aspect of these experiments was the change in weight, that is the decisive factor. From that alone the experiments can be evaluated. Moreover, in the fever charts there are descriptions of a few other things, so that for the specialist they present a pretty clear picture.

MR. HARDY: At this time if the Tribunal could adjourn for a period of 10 minutes, I will have the table made up so we can examine these records, and I can continue my cross-examination from this first defense counsel bench, if that meets the approval of the Tribunal.

THE PRESIDENT: You have no further cross-examination that will take up the time to the time of recess?

MR. HARDY: No, Your Honor. We are going to proceed to the charts now. It will take a matter of 5 to 10 minutes.

THE PRESIDENT: Very well. The Tribunal will be in recess.

(Thereupon a recess was taken.)



(following recess)

MR. CATHALL: The Tribunal is again in session.

THE PRESIDENT: The defendant Baigboeck will step down from the stand and take a seat at this table.

MR. HENRY: At this time I would like to take up with the defendant the effect of these individual experiments. These charts, Your Honor, are in a series. We will note that the first experimental subjects have four charts, which run continuously. At the top of each chart the number one appears. For convenience, I will request permission of the Tribunal to number the first page with the No. 1 as A-1 and mark thereon the letter A; on the second chart, pertaining to the first subject, the No. B-1 on the third chart the number C-1, and on the fourth chart the number D-1, so we may properly refer to each one of the four charts referring to the first subjects, if it please the Tribunal.

THE PRESIDENT: It will note for the record that the marks now on the charts, on the first three, are made with a red pencil.

MR. HENRY: The fourth chart, Your Honor, does not have the red pencil No. 1, you can see it has No. 1.

THE PRESIDENT: It will be noted for the record that the fourth chart has been marked for the Tribunal as D-1 in black pencil.

MR. HENRY: Now, in order to clearly understand these charts, I am going to ask Professor Baigboeck to explain some of them, marking thereon the name which appears on the top left-hand corner. In this case, No. 1, could you tell us, Professor Baigboeck, what this name is and who does it refer to?

MR. BAIGBOECK: That is the name of the experimental subject.

MR. HENRY: That name on that chart .....

THE PRESIDENT: Please repeat.

MR. HENRY: What is the name, please?

THE PRESIDENT: Tell him to spell it.

MR. HADY: Kindly spell the name.

5.4. INDEX: P-R-A-I-Z.

Q. Now on the first line under the heading of the chart there appears this word, would you kindly tell us what that line is, the first word?

THE ALLEGMENT: I would suggest that you designate it as the first horizontal block running from left to right on the page.

MR. HARRY: Thank you.

THE PRESIDENT: Just a moment; are you getting the English? One of the judges is not receiving the English translation.

THE INTERPRETER: It must be in the switch, Your Honor.

MR. HANCOCK: Now, Professor Beiglböck . . . .

DR. SPENGLER: Can I tell you something quite general for your information and the prosecutor my resume again at once. First of all, this means the loss of weight, the duration of the experiment, the body temperature, pulse, and the stool and amount of urine eliminated. All these matters can be seen on the charts for every experimental subject. The most important thing is the loss of weight. On the basis of these charts, Baigbocck calculated this very exactly in the prison and let me also say for your information that the tables of weights are the most important part; they are the key to everything. The most important thing again is the loss of weight. I should like later, when I get to them, to give an exhibit number to these documents and I should like to give them to you now. I have had a photostatic copy of every one made and when I continue with my case I shall come to these again. So far, however, I have not put them in evidence, as that was not strictly necessary before the documents were impounded, but I have no objection to their being looked at most closely now. Please accept these tables now so that you may also check on the loss of weight. It was for this reason that Baigbocck has them here in court. Then I can also tell you what those other two booklets are about. Mr. Hardy, please get the Black Booklet.

MR. ACCIDENT: Will you explain what the books are.

MR. HARDY: Your Honor, I object to the introduction of these charts at this time. If defense counsel sees fit to present them in redirect examination I will object. I do not see during cross-examination how these charts can be introduced. Those charts which were prepared after the defendant was incarcerated would not be in much force and effect here.

THE PRESIDENT: Unless these charts will be of assistance to the Tribunal now, it is suggested they be offered later. I will ask the defendant witness if he confirms the explanation of these charts which was made by his counsel.

BY THE PRESIDENT:

Q. Has counsel correctly explained these charts?

A. In the first line here is the date: On the second line, the days on which the subject was observed. Here in the third line there is the record of the weight and, if I remember correctly, it is also set down below in some cases. Here is the subject's height. The blue is the temperature. The red is the pulse. Here is the record of the person's solid elimination. Here is the blood pressure, and then these are notes which were copied from the other booklet regarding the blood examination.

Q. Is there any record on this sheet which you have just described to the Tribunal of the change of weight of the experimental subject?

A. Here — 63.5, 64, 64.5. On the 22nd —

Q. That is on the third line from the top.

A. Yes. This is curve "B." Here is the weight: 64.7. Now, the experiment begins here and now here you see the loss of weight. This is a subject from the hungering and thirsting group. You can see that he loses weight very rapidly, goes from 64.7 down to 62.2; then 59, 58, down to 57.5. Here the experiment is interrupted at 7:00 p.m. Then the next days he weighed 57.5 and 58.2 58.6 and 62, 61, 61. Then at the conclusion the man was weighed again. This is on the 12th of September.

That is where the curves were concluded. That was the weight when he was released. Let me point out also that this writing here —

MR. HARDY: Your Honor, for the systematic method of examination of these records — and I think it would be more clear to the Tribunal — to avoid repetition I would like to direct my questions on each point on each chart and then the defendant can explain it at that time and have some sequence of continuity.

THE PRESIDENT: As it is suggested, counsel may now proceed.

MR. HARDY:

1. Professor Reiglboeck, the first horizontal line running left to right across the chart is the calendar date line is it not?

A. Yes.

2. The second horizontal line is the day of each experiment — that is, the number of days under which the subject is being subjected to an experiment. Is that correct?

A. Yes.

3. The third horizontal line contains on the top of that particular line the weight of the patient on each day. Is that correct?

A. Yes.

4. Immediately under the weight of the patient on the third horizontal line it contains the height and other miscellaneous data. Is that correct?

A. Yes, that is right.

5. Now, at the middle of the page we see, running left to right, a blunt black line. That is the line denoting the temperature curve — that is, any blue line marked under the blunt black line indicates normal temperature and any blue line marked above the black line indicates temperature above normal. Is that correct?

A. Yes.

6. Immediately under the black blunt line, in the middle of the page, we find blue marks running left to right in an irregular manner. Do



those indicate the temperature of the patient or subject?

A. The red line?

Q. Blue line.

A. Yes, that is right.

Q. Under the blue line in the portion of the chart directly under the black blunt line appears a red line running irregularly from left to right. That indicates the pulse rate of the subject, does it not?

A. Yes.

Q. Now, after the graph section of the chart there runs a block which we will consider the first line of blocks under the graph section of the chart. This first line running left to right under the graph section of the chart indicates the stool, does it not?

A. That is right.

Q. The second line under the graph section of the chart indicates -- I am unable to determine that. Could you tell us what that line indicates -- the second line under the graph section of the chart?

A. That is entitled "Vomit." Let me say that these fever charts are the regular charts used in the German army. They are already printed charts that are generally used in German army hospitals. That line I just mentioned is entitled "Vomiting."

Q And, the third line under the graph section of the chart indicates what?

A Body weight.

Q The fourth line indicates the blood pressure, does it not; that is the fourth line under the graph section of the chart?

A Blood pressure, yes.

Q And, then the large blocks, that is the fifth section under the graph section of the chart, are used for what purpose?

A The results of blood examination were occasionally entered there, and various other notes.

Q Now, on the chart B-1, in the graph section of the chart under the blunt black line, appear red verticle lines; is the red vertical line which appears in the graph section of the chart, under the black blunt line, the indication of urinary output or excretion?

A Yes.

Q Is the blue vertical marking under the black blunt line an indication of the intake, that is, the water a person drinks?

A Yes, more or less. It strikes me here -- let me say that perhaps the amounts are not exact here. Later on it was not checked exactly on just how much they did consume.

MR. HARDY: May I request, your Honors, to look at this first series of charts, and if you have any further question concerning the marks thereon, we will clear that point up before we proceed to analyze the charts.

THE PRESIDENT: I will ask the witness how many days the charts indicate that the subject was experimented on.

MR. HARDY: If your Honor, please, I intend to analyze that in taking care of each chart.

THE PRESIDENT: Well.

Q In connection with the last examination of the defendant, he stated that these vertical marks and red marks appearing below the black blunt line, in the middle of the page, do not contend to be

accurate; is that correct? Is that what you intended to imply?

A I said that in the latter part of the experiments, the amount of fluid was not strictly controlled. It did not make any difference to me, for instance, whether on 1 September there was a consumption of 2000 or 3000 cc. If he drank on the side, for instance, here, that would not appear in the chart.

Q Can you tell the Tribunal in the scientific marking of charts, how you indicate that the vertical line, such as appears in chart C-1 is not to be construed as an accurate one? Is there a difference in the method of marking in that? The blue vertical line on chart C-1, is there a difference in the method of marking in that if it is to be considered an accurate figure, the marking is perfectly blunt at the end, that is running level, and if it is to be construed as inaccurate or merely an estimate the line has a fringed edge or an irregular edge?

A These lines were drawn by the medical students or by the medico, and what they looked like depended on how they drew them. I am not exactly informed on this. The only thing important to me was to know how the amount of urine set down. Moreover, this graphic representation of the urine elimination is not so important because we measured the amount of urine eliminated separately and entered it separately. The medical students who measured the urine entered that every time in the booklet, and then went to the chart, if he did so at all, and put the marks in it hastily as we see here. I cannot guarantee that the line is correct to the millimeter. The real data on the urine amount is to be found in the booklet, and this is simply something that was more or less accurately or inaccurately transferred to the graphs.

Q Is it customary in scientific research experiment on human beings and keep haphazard reports or is it customary to keep scientific accurate reports, so you can properly report about the results of your work?

A If you will please pass me the booklet I can show you that the amount of urine are entered very exactly.

Q That is not my question, Doctor; my question is: In scientific research is it necessary to keep accurate or haphazard records?

A Of course, it is necessary to have exact in recording the amount of urine we put the amounts down in a separate booklet.

Q Those records that are before the Tribunal purport to be accurate scientific records of experiments conducted on 44 experimental subjects in the concentration camp Dachau?

A What was necessary for arriving at a decisive result in the experiments was set down in an exact way.

Q Doctor, this case, No. 1, is the first case in the hunger and thirst group, is it not?

A Yes.

Q Now the subject's first name was Franz, was it not, F-r-a-n-z?

A I cannot tell you whether that is his first or his last name.

Q Is it possible that his last name did appear on the charts at one time or is it customary to merely put down the first name of the patient?

A I assume that is his family name. As far as I know I never entered the first name, so in the names here those are the family names of the subjects.

THE PRESIDENT: Witness, in whose handwriting is the name Franz written.

A That is my handwriting.

Q Witness, this experiment, we note on chart A-1 you indicate for the first seven days of the experiment was an observation period; is that correct?

A The period of observation closes at the eighth day. The experiment begins on this day here.

Q Then, the experiment you contend began on the ninth day?



A Yes, as you can see from the weight.

JUDGE SAMPSON: Would it be more explicit to say then that in the four graphs now before the Tribunal, marked A-1, to D-1 inclusive, the chart A-1 is concerned only with the preliminary period or the beginning of experiments?

MR. HARDY: No, your Honor, I can possibly identify them, but the Prosecution contends the experiments began on the eight day and not the ninth.

Q Now, on the eight day, which is indicated on chart A-1, we see in the portion of the chart under the eight day, the note "Hunger I"; what does that refer to, Doctor?

A That means that on this day I ordered that the hunger-thirst experiment was to begin.

Q Then, this eight day which was the 21st day of August, the eight day of the experiment as indicated on Chart A-1, is the beginning of the experiment?

A It begins on the 22nd, that can be seen from the weight very clearly. If it had begun on the 21st the first loss of weight would have occurred then. It went, he actually gained weight in that period and that is a certain indication that the experiment did not begin on that day. You notice here that once the experiment began he lost 2.5 kilos and 2 kilos and so on. In other words, a hunger-thirst experiment supposes that the man will lose weight immediately once it begins.

Q. Doctor, can you tell the Tribunal when the arrow in the portion of the chart under the ninth day of the experiment, under the date of 22 August, on Chart B-1, the arrow which has the blue circle at the end thereof and the initials DS along the side of it, was placed on this chart?

A. I believe that I did it at the time when I evaluated the graphs.

Q. Is it apparent from this chart that the red arrow appearing in the blue circle under the 22nd is in a different color red pencil than that of the red pencil marks on all the charts?

A. Yes, you can see that everywhere. These curves were made by different people. I can't say the same pencil was used all the time, but that in itself proves nothing. There were three or four different people. Once this person took the temperatures and then another one and whether they always used the same red pencil I can't say.

Q. Now, Doctor, we note on the chart B-1, under the 22nd August the 9th day of the Experiment, the patient has received pyramiden, a drug. What was the purpose of administering pyramiden to that patient?

A. I don't remember that anymore now. Perhaps he had some bad headache or something like that.

Q. Is pyramiden a headache remedy?

A. Well, pyramiden is administered for all kinds of different things. Among other things it is given in cases of headache.

Q. It is possible that the patient didn't have a headache before the experiment started, did he?

A. I can't say anymore today why I gave him pyramiden at that time.

Q. Well, now on the same date, that is also on the same date, that is the 22nd August, the 9th day of the experiment as indicated on chart B-1, we see in the portion of the chart under this black blunt line that a blue vertical line has been placed on the chart and then erased. Is that correct?

A. Well, there was an error. In any case probably it was erased

because it was marked in there by mistake. Such things occur once in a while. At the moment I can't reconstruct in all details. In any case the hunger and thirst period begins here and, therefore, it is impossible that he had a blue line here. The person marking it made a mistake. First marked it in blue and then in red pencil.

Q. You exclude the possibility that the arrow with the blue circle on the end thereof and the blue vertical mark which has been erased on the chart B-1, under date of 22 August, the 9th day of the experiment, were marks made on these charts since the commencement of this action before this Tribunal?

A. Yes, I can exclude that possibility. I did not mark anything at all here.

Q. When did the blue circle and the arrow appear on this chart for the first time? That is, the red arrow with the blue circle on the end thereof contained in chart B-1 under date of 22 August, the 9th day of the experiment?

A. I cannot state that with certainty. I don't remember it anymore.

Q. Well, now you stated that you put that arrow on the chart when you evaluated the material. Was it when you evaluated the material here in Nurnberg or was it when you evaluated the material in August 1944 in the Dachau concentration camp?

A. I evaluated it at a later time. I cannot state with certainty when I did so. It happened that at that time I marked that arrow but that arrow isn't important at all. The important thing is that by the curves of the weight one can see quite clearly when the experiment was started.

Q. Well, in the first instance, that is at Dachau when you began an experiment, didn't you mark at that time when the experiment began or did you wait until a later date to mark the beginning of the experiment? You see, doctor, on chart A-1, under the 7 to 21 August, the 8th day of the experiment, you very clearly, mark the commencement of

the experiment by saying hunger and thirst will begin on this date.  
Isn't that true?

THE PRESIDENT: Where is that said, Mr. Hardy?

MR. HARDY: Under 21 August on chart A-1, your Honor, the 8th day of the experiment - the German mark "Hunger-D", which means "hunger-thirst".

A. Well today I cannot inform you anymore about every little detail. Probably at that time I made that mark on it so that the medical orderlies would know that this was the hunger and thirst group, and when the experiments began. But, please believe me, the experiment could not have started any earlier than the loss of weight, because it is impossible that a person hunger and thirst for 24 hours and still gain weight. That is impossible.

Q. Can a person lose weight immediately upon being subjected to hunger and thirst for a very short period of 24 hours? Will he lose a tremendous amount of weight in that short period of time?

A. Yes, certainly.

Q. Is it possible, doctor, that you put the arrow with the blue circle on the end thereof, found on chart B-1 under date of 22 August, the 9th day of the experiment, on this chart at a later date in order to shorten the period of starvation of this patient? In other words to shorten the experimental days from 7 to 6?

JUDGE SEBRING: Do you mean that, Mr. Hardy? Or, do you mean to apparently shorten the experimental days by indicating upon the records kept a shorter period of time?

MR. HARDY: Yes, Your Honor, that is what I mean to convey.

A. From the curves of the weight it is visible so clearly when the experiment was started that it would be absolutely senseless to attempt a thing like that.

JUDGE SEBRING: Doctor, can you state at what time during each day the weight of your experimental subjects was taken?



A. The weight, I believe was taken in the morning or during the morning, during the forenoon.

JUDGE SEBRING: Then if that be true the first day upon which hunger and thirst, that is, the fasting period started, would not indicate a loss of weight, would it, doctor? There would have to be an interval of 24 hours before there would be any recorded loss of weight, if weights were taken each morning?

A. Well, here for example is the weight determined before the beginning of the experiment. Then the person suffered hunger and thirst for 24 hours and then the next weight is 2.5 kilograms less, that is 5 pounds. Then 24 hours elapse and then 2 kilogram loss, and then 24 hours and the person weights 1 kilogram less. In other words, you count upon that person who is hungering and thirsting losing  $1\frac{1}{2}$  to 2 kilograms of body weight in the first 24 hours. Now, here by accident it happens that the weight was not determined on the 21st. This alone indicates that the experiment did not begin on this day, because we had to find out the weight before the beginning. If the experiment had actually begun on this day, the experimental subject, in order to begin with a loss of weight of 2 kilograms, would have had to gain 2 kilograms on the first day of the experiment, from the 21st to the 22nd, and that is impossible.

BY MR. HARDY:

Q. Dr. Seiglbosch, this arrow with the blue circle on the end thereof, under date of August 22 on chart 3-1, the 9th day of the experiment, when did you place that mark on that chart? You say that you made it yourself. Now, just when did you do it? Did you do it since you have been here in this prison when you evaluated these charts?

A. I marked this arrow in order to evaluate the charts.

Q. When?

A. I believe that I did it in the year 1945.

Q. 1945?

A. Yes.

Q. You didn't do it in prison?

A. No.

Q. 1945? That is one year after the completion of the experiment?

A. Yes. At that time I evaluated them again.

Q. Isn't a chart of scientific experiments supposed to represent things that actually happened and not an order book?

A. Well this was not a document, not from my point of view, but was the basis for evaluation for me. If one conducts an experiment one first takes some notes during the experiment and later on one evaluates these notes.

Q. These were not a document, but merely the record of the experiment kept daily. Is that right? The only records kept?

A. These records were kept in order to obtain the curves of weight and thirst. The rest of the figures were recorded in the notebooks. That is how it is done in every experiment.

Q. Well now, on Chart B-1, under the date 22 August, the ninth day of the experiment, we see a notation that pyramiden had been administered to the subject used. If that is the correct date of the commencement of the experiment as contended by you, was it proper scientifically to start a person out on an experiment of hunger and thirst for a period of five or six days if they were suffering to the extent that it was necessary to administer pyramiden to that subject?

A. At the moment I am no longer in a position to state to you the reason why I gave that pyramiden at that time. If somebody tells me, "I have a little headache today," that is not an illness, after all.

Q. On Chart B-1, under the date line, that is, the first horizontal line, after the heading of the chart, we note the dates, the 22nd, 23rd 24th, 25th, 26th, 27th 28th and 29th of August. Each one of those dates has been altered. Can you tell me when these dates were altered?

A. They were certainly miswritten by mistake. Somebody made a mistake in writing them down. They were changed in the same handwriting as the original figures. Probably he just made a mistake in writing them down. These charts were filled out in advance. They were fixed on the wall and then the medical orderly went over and wrote the dates for the entire week down. Now, it is

entirely possible that he made a mistake and later erased the wrong dates. You can see from other charts that that is possible. Certainly, the same correction doesn't appear on all the charts. Of course, if some one writes the dates down in advance it is possible that he makes a mistake and, if he made a mistake, he later on corrects it. I consider that entirely possible.

Q. Well, now, you say, under the date of the 21st of August, contained on Chart A-1, that the weight under the eighth experimental day does not appear and that if you had commenced the experiment on that date that the weight would appear. Is it possible that the date - the 21st of August, was erroneously placed under that date and then the date later changed to the 22nd?

A. Please hand me some other fever graphs. Others than these here. The experiments all started on the same day.

Q. I desire to check this one now. We'll go to the others as we come to them, Doctor.

A. The experiments all began on the same day as far as the first group from 1 to 32 is concerned. All of them. What happened here, is, in my opinion, an error of the medical orderly who wrote the dates in advance - who perhaps made a mistake of one day and then, on his own, he corrected it later on.

Q. Let's go to the next portion of the chart. Now, this experiment you contend began on the 22nd day of August and lasted until the 27th day of August. That is, the experiment lasted five days. Is that your contention? 1, 2, 3, 4, 5 days?

To indicate the end of the experiments, Your Honor, in a hunger and thirst experiment, the subject being given no food or water, will indicate no intake in the section of



the chart below the black blunt line - that is, the vertical blue lines which indicate an intake on the part of the subject used do not appear in a hunger and thirst experiment, and when the blue vertical line appears for the first time that indicates that the patient or subject has received food or water, in this case, water.

JUDGE SEBRING: Do you agree with that, defendant, that explanation? Do you agree with that statement?

WITNESS: Yes, blue means intake of liquid and red means elimination.

BY MR. HARDY:

Q. Now, on the 27th of August, indicated on Chart B-1, the 14th day of the experiment, do you contend that that was the last day of the experiment or the end of the hunger and thirst of this patient Franz?

A. Yes, I do.

Q. Would you kindly tell the Tribunal what the red arrow running vertically, with a red circle on the end thereof, found under the date 27 August on Chart B-1 under the 14th day of the experiment, indicates?

A. It means that the experiment was terminated.

Q. Now, in that same block under the 27th of August, on Chart B-1, the 14th day of the experiment, appears some pencil notations which indicate, I assume, that this patient was rather ill and that you gave him 100 cc of sterofundin, 40 cc of glucose and 10 cc of calcium, by vein. Is that correct?

A. As far as I can tell from the blue line, he must have received at least 500 cc intravenously, but it is possible that some physiological salt solution was added to this. Glucose he received in order to give him some nourishment - to give him the first calories, and calcium he received....

Yes, I gave them calcium because of the muscles. Because of the oversensitivity of the muscles, this strong reaction that I have already described before, I gave calcium in all these experiments in order to calm the muscles. You will probably find that on many of the charts.

Q. What is sterofundin? Is that a heart stimulant?

A. Sterofundin?

Q. Yes.

A. Sterofundin is a trademark for a liquid which is something like a physiological table-salt solution. I should say it is a sort of Ringer solution.

Q. What is its purpose?

A. To introduce liquid.

Q. Now, on the 27th day of August, which was the last day of the experiment, indicated on Chart B-1, we note, that is, under the black blunt line and above the black broad line, the blue line running irregularly from left to right which indicates the temperature of the patient has exceeded the normal temperature rate and has gone up considerably. Now, was that patient very ill on that day?

A. Well, one really cannot talk of considerable increase if somebody has a temperature of 37.6. The intravenous injection of salt solution brings about a slight rise in temperature regularly. That can be seen in the most healthy person. One even can observe that the physiological table salt solution, if intravenously injected causes the temperature to rise to 38 or 39 degrees. That is not a sign of illness. That is just the reaction. Moreover, if this should have happened before - and that seems to me more probable as I just see now in the case of persons who are thirsty, one sees frequently that they have slight rises of temperature. That has been known in world of medicine

for one hundred years.

Q. Well now, tell us, Doctor, in these charts we note, under the date the 29th of August, on Chart B-1, the dates 30th on Chart C-1, then the 31st on Chart C-1, then the 1st of September on Chart C-1, that the patient received a considerable amount of water and food but the lack of indication of urinary output in the last days of the experiment? On the last day of the charting of the subject's condition?

A. Please show me the black notebook. Then, I can tell you exactly how much urine the patient eliminated on the 29th. The 29th.....

Q. Or was this one of the patients who throw away his urine?

A. I know now. The 29th - from that date on, the urine was no longer saved because we no longer made the the analysis of the urine.

Q. Now, the entry on September 3 on Chart C-1, under September 3, indicates the weight of the patient on the 3rd of September to be 61 kilos, and the Tribunal will note that the weight of the patient here is indicated on the third line under the graph section of the chart as opposed to the indication of weight on the Charts B-1 and A-1 where the weight is indicated on the third line from the head of the chart. They have two places to indicate weights, and on the third chart, namely C-1, they merely placed the weight down here rather than on the top of the chart. They placed it down at the bottom - the third line under the graph section. This weight, 61 kilos, indicates that the subject was still four pounds underweight. Is that correct?

A. Yes.

Q Well, now in the space under 3rd September under Chart C-1 the 21st day of the experiment appears English translations which indicate that the weight of the patient on the 12th of September was 62 kilos, is that correct?

A Yes.

Q When was that entry in ink made under the date 3rd September indicating that the weight on the 12th September was 62 kilos made?

A That was made on 12 September. I let them carry on the fever curves only for a short time afterwards, because there was no reason later on the person who was feeling fine to measure everything quite exactly, and on the 12th of September I had the final weights taken for the most part, because then I gathered the charts and took the charts to my apartment, that is where I was living, and therefore on the 12th of September I had the weights taken, and if I could ask you again to give me that notebook, on this occasion I can show you right away that these figures were written down here. You see, for instance, the figures written down by the French medical student. You see I shall show you some of them—I wrote them, for example ---

Q In the black book, which coincides with the registration of the weight under the section 3 September on Chart C-1?

A The weight is noted down only here.

Q When was that information put on Chart C-1?

A On the 12th September 1944.

Q Is it in the black book?

A No.

Q Why not?

A Because the weights are recorded only here on these curves, and in the black book they put down the amount of urine, the specific weight of the urine, the pH determination of the urine, the blood analysis, etc. and similar things. The weight was marked on these curves here.

Q Is the black book supposed to be the scientific record



that has all the particulars of the experiments contained therein?

A The black book is not the notation of the scientific values, but only a part of the notations. Every person who took part in determinations had his own notebook, you can see that quite clearly. One had a grey notebook where he put the nitrogen values, another one had a notebook where the salt values were put down, and then Bielwein or Wolosak, one of them, I believe it was Bielwein, looked at these notebooks every day and marked it on these charts here. From that time —

Q What does the word "den" in German mean, which is written before the date 12 September and 62 Kilos, which is indicated under the date 3 September on Chart C-1?

A "The 12th September 1944." That is another expression for saying "On the 12th of September." A Frenchman wrote it, and occasionally he might have used a somewhat more unusual expression.

Q You mean a Frenchman put that notation which appears on 3 September 1944 during the last seven months of this year since your trial began?

A Since the 15th September 1944 I have not seen those Frenchmen. Through my defense counsel, I put in application through the Secretary General already in December 1946 that they should look for these French medical students as witnesses for me, and I would consider myself very fortunate if they could be found, for at this moment the identification of the handwriting and the curves would be made possible in a much more simple manner than possible under the present circumstances.

Q I have one more question with these series of charts, Doctor. Under date 3 September 1941, the very first day we find the temperature lines, the program temperature line, intersects the pulse line, that is the red pulse line. Now, isn't the crossing of the temperature and pulse curves rather significant cause for worry?

A Well, the important thing is to what extent this takes place.

Q And I am informed that clinically the crossing of the temperature and pulse curves is a deadly sign, is that right?

A Well, Mr. Prosecutor, you probably got some insufficient information here. If a person has a pulse of 100 that is not a deadly sign.

Q If the pulse curves and fever curves intersect is that a sign that would give a clinician cause to worry about his patient, would he have a little more cause to worry about his patient than usual?

A I don't know whether this pulse was not taken after the experimental subject happened to have taken a long walk. But you see that later on the pulse was taken several times, and then this dead person has a pulse of 80 and then 60.

Q I didn't say the person was dead; I asked you whether clinically the intersection of the pulse curve and the fever curve would give the clinician cause for worry?

A No, I can't say that just like that. If before a person has a temperature of let us say 37 and he suddenly sinks to 34, and his pulse rises from 80 to 150, then that is a sign there is disease here, but these are physiological deviations you see here.

Q Let's go on to Case II, Doctor. Case No. II contains four charts -- No. II, and I request the Tribunal mark them A to B-a, C-2 to D-a.

MR. HARDY: Your Honor, I hope that going over the next two charts will not be as extensive as the first one, inasmuch as going over the first one it was necessary to acquaint the Tribunal with the charts and explain them so we can discuss them.

THE PRESIDENT: The Tribunal will be in recess for a few minutes.

(Thereupon a recess was taken.)

THE PRESIDENT: The Tribunal is again in session.

BY MR. HANBY:

Q Now, with the charts indicating the second experimental subject, we note on chart A-2 the name of the subject has been erased; can you tell us whether or not that erasure was made by yourself, Doctor?

A No, I did not erase anything here at all.

Q Who made that erasure?

A I cannot tell you that now, perhaps at the time it was written down by mistake.

Q The Tribunal will note the name on chart A-2 has been erased and you can see the impression of the letters: K - I - A and I believe it is N and then the next letter, the impression cannot be seen and the next is E again; who made that erasure, Doctor?

A I do not know that any more, I cannot tell you. Perhaps it is possible that there was a wrong name written down. In any case, I did not erase it or perhaps I did so at the time but I did not do it later. If I had erased it here, I would probably have done it in such a way that you could not read it now.

Q Have you been advised that was erased here in Nurnberg?

A No.

Q Can you look at the name on chart A-2 and determine from the impression thereon what letters may have been there before the erasure; using this glass?

(A magnifying glass is handed to the witness.)

A Klam - Klam; well as far as I can see there is a K-I-A and then it must have been a D like in Dore and then the next I cannot read, then an E again. Klauke or something like that, such a name was among the patients or something like that.

Q Was that originally your hand-writing before the erasure?

A Could be, maybe yes.

Q Is it possible that was erased here in Nurnberg by your

defense counsel?

A Well, you will have to ask my defense counsel himself.  
In any case, I did not erase it.

Q Does it seem strange to you that the name on chart A-2,  
written in your hand-writing, should be erased when later negligently  
the Chart on D-2 has the same name as the impression conveyed on Chart  
A-2 has not been erased?

A Well, any way, it seems to me to speak with absolute  
certainty that the erasure was done for reasons of camouflage, you do  
not have to think my defense counsel is so stupid he would erase one  
and not the other. If he had done that, he would have done it more  
thoroughly.

Q Now, on chart D from there would you kindly spell the  
name you have written, the name you have written in your own hand-  
writing?

A Klande or Klaude and it could be Klafda too. No, I be-  
lieve it must be Klan or Klaude.

Q How do you spell that, Doctor?

A K-I-A and either a U or an H, I cannot say that, then a  
D - E.

Q Does Chart D-2 bear any recording thereon, or was it  
just an extra sheet that was not used?

A That was not used.

Q That was not used; then it is possible in studying the  
case of the second subject that the fourth sheet, namely D-2 or mark  
D-2, could have been overlooked by the person who erased the name on  
A-2?

A Yes, I already saw that. In case 1, it seems to have  
been as follows: namely, that these curves had been prepared then and  
someone forgot they had been prepared already and new ones were start-  
ed. I contend that possibility or probability.

Q At any time has your defense counsel consulted with you



concerning possible alterations on these charts?

A I do not understand your question.

Q At any time has your defense counsel consulted with you concerning alterations on these charts?

A We were in agreement at all times that the charts and the curves shall be submitted in the same way as we received them here.

Q But, this chart has been erased. Doctor, was that in the same condition as those found in your trunks in Vienna?

A Yes, apparently in many cases I didn't erase it. I can't tell you anything more than that. I did not erase anything here, and, in any case, they were lying next to each other. It is possible, too, that it was erased at that time. I can't tell you any more now what happened. In any case, I myself did not erase it and certainly not with the intention to hide the name.

Q Did the defense counsel erase it, to your knowledge?

A I certainly don't believe that he did.

Q Do you exclude the possibility that he could have erased it?

A Well, the simplest thing would be - I meant to say that my defense counsel could best answer this question himself.

Q Let's go to the next section of this case No. 2. Under the date 21 August on Chart A2, the eighth day of the experiment, we see in the third block an arrow running horizontally with a vertical line bisecting that arrow. Immediately thereunder appear the German words "Hunger D". What does the arrow and the words "Hunger D" indicate in that block?

A That means the same as in the other curve, and here I also see that my original opinion was correct after all. I stated at the time, you start with hunger and thirst. Therefore the arrow is there, because if the arrow had started before, I probably would not have drawn that arrow. I can't tell you anything else but that the experiment began in any case for the first group on August. That is visible from all the values. From the weights it is unequivocally noticeable that it must have been that way. Of course, I had the weight determined on that day in which the experiment began.

Q But now you have an inconsistency with your explanation of the arrow and the blue circle, thereon in case No. 1, in that here on Chart B2 you have just stated that you said the experiment was to start on the 22nd, but you have an arrow under the date of the 23rd with a blue circle thereunder indicating the experiment began

on the 23rd. Now, did you erroneously place that arrow in the date of the 23rd?

A Yes, presumably at that time I made the marking and it is possible that I was somewhat superficial. I didn't do that, after all, because I believed that at any time it would be submitted; but you can see that the weights show quite clearly that the experiment began on the 22nd. On Case 1 the arrow was on the 21st and the fever curves - I believe it must have been on the 22nd. I can't explain to you any more.

Mr. President, please look at the weights. From the weights alone,...

MR. PARRY: If defense counsel has an objection, Your Honor, he may raise it. I will proceed with my cross examination.

Q If that arrow with the blue circle at the end thereof under the 23rd of August was made to indicate the beginning of the experiment, can you explain what the arrow with the blue circle thereunder under the date of the 22nd of August indicated?

A I made those arrows at the time when I copied the weights when I evaluated this experiment.

Q You slipped up making this entry of the arrow under the 23rd and put in the wrong date, didn't you?

A Well, in any case, that was done erroneously. Yes, it can't be any other way.

Q And did you put that red arrow with the blue mark on the end thereof, blue circle on the end thereof, on this chart at the time of the experiment in August 1944 at Dachau?

A I told you already that at a later date I evaluated these charts and determined the different values and curves, and for my own use at that time I entered this curve, this arrow, because in the copying of the weights and looking at the weights at that time in different charts it starts once here and once there. I noted down the loss of weight at the time in order to evaluate them, and I made that sign at that time. At that time I wasn't thinking that at one time this sign would ever be of any significance. I don't stand here and say that the experiment began at that time because of that. I say only that on the 22nd of March the experiments of Group 1 began.

Q If you entered this mark or this arrow on the 23rd at a later date — that is, a year or two years after the conclusion of the experiments — as an evaluation mark, why did you attempt to imitate the red and blue pencil of the original? Why didn't you just use a scratch pencil which would show the later entry and not be an attempt at forgery? If you entered this mark one year later, you had to go and get a red and blue pencil to make your evaluation mark, didn't you?

A Well, in order to make the difference apparent to the eye, between the beginning and the end, probably that is what it was. I wasn't thinking for a long time at that time about what I was doing. Perhaps, I just liked it that way. I can't tell you that any more.

Q Is it possible you made the entry in red and blue pencil in order to deceive your expert witness Volhard, so that he would think the experiments were of a shorter period of time than they actually were?

A I showed Professor Volhard the weight chart. I pointed out to him particularly in the evaluation of this experiment that the most important thing seemed to be how the weights behaved in this experiment, and I hope that I shall have an opportunity later on to prove this. Only from this can one determine one decisive point — namely, the amount of loss of water. I did not think that the Professor was so stupid that he wouldn't notice that between the 22nd and the 23rd there



was a loss of weight of more than 2 kilograms while from the 20th to the 22nd an increase of weight of 0.6. This constant loss of weight I would be crazy if --

Q Now, whether or not Professor Volhard would be stupid enough not to assume that the experiment began on the 8th experimental day or the 9th or the 10th is not an issue here. You, in fact, were either careless enough or stupid enough to yourself to mark the chart that the experiment began on the 23rd and marked it one year later when you had ample opportunity to evaluate the charts. Isn't that correct? Now, if you, the experimenter, carelessly -- or, as you put it, stupidly -- state here with your marking that the experiment began on the 23rd, how would an innocent expert looking at these records and making an attempt to evaluate them and then coming here before this tribunal and testify under oath -- how could he determine that any better than you did?

A An expert, of course, should be able to see that at first sight, that the experiment started here.

Q But, you could not see it, could you, when you made the entry?

A Well, that is evidence of the fact that this was an error on my part.

Q Now, under the date of the 22nd — you contend that is the date the experiment began, is that correct?

THE PRESIDENT: I would like to ask the witness a question.  
BY THE PRESIDENT:

Q Witness, on all of these four charts, the first line indicates the date, does it not?

A Yes, your Honor.

Q On A-2 we find the date in pencil on the first block 14; is that correct?

A On the third block, the date 16.

Q On the fifth, the date 18, and on the seventh, the date 20. The next block is vacant.

A Yes.

Q That would be the 21st of the month, would it not?

A Yes.

Q Over on B-2, the next succeeding date block, was originally written with the date 22, was it not?

A Yes.

Q It was then altered to the 21st, is that correct?

A No.

Q It was altered from the 22nd to the 21st?

A Apparently from the 21st to the 22nd.

Q Then, as the charts now stand, there are two dates for the 21st, are there not, the last block on A-2 and the first block on B-2?

A I can remember now, or I believe that I remember, how it

happened. These curves were written in advance; that is, at the desk he wrote down the dates before the charts were fixed to the wall. Probably he made a mistake in the date here. Later on it probably will become apparent how this happened. Originally the 21st had been written down, then he changed that to the 22nd, etc. He probably wrote the whole thing in advance and made an error of one day. This is now the 21st, 22nd, 23rd, etc.

Q On the lower blocks on the chart where the red and blue graphs indicate, both dates are made out. Both dates which should be the 21st are indicated, are they not?

A No. This curve was drawn continuously. I said that the dates were already written down in advance, that is, the date of illness, that was written in advance for the entire curve, and then the curve was placed on the wall near the bed, and then every day it was marked several times — the pulse, the temperature and the like, and here he must have noticed that in writing the date down in advance he made a mistake. Therefore, only the date was changed and not the observational data; that corresponds to the pulse and temperature of 21st, and here to the 22nd, and there to the 23rd, and so on.

Q Then, one day more has a curve than actually existed in the days of the week, did it not? There is one extra day in the curve, is there not?

A No, the curve was made from day to day by the medical students, and the entries were made continuously; and then apparently he noticed that in writing the dates in advance he made an error and he corrected that. This was carried out on the same way, day by day, one day after the other.

THE PRESIDENT: Very well.

BY MR. SEARD:

Q Under the date of 23 August on chart B-2, we find in the fifth block under the graph section of the chart the word which I will spell "E-C-H", and the next word "S-C-H-E-C-H". Now, does that mean

that the patient's pulse was too weak to get a recording?

A The blood pressure of the patients was measured every day when they were lying down and standing up, or after a slight effort. There are two different values for the blood pressure; 104 over 68, 112 over 80, 106 over 71, 110 over 78.

Q (Interposing) What does that entry mean, doctor, the word, "Zu Schwach"?

A Well, that is because he originally did not want to undergo this effort. Please show me the black notebook again.

Q Will you kindly tell me what those words mean? What is the meaning of the words?

A Well, it is concerned with the blood pressure. I want to clarify that by means of the black note book.

Q What do the words "Zu Schwach" mean?

A Because originally they were not supposed to subject him to an effort because if the blood pressure is taken after a person has been subjected to an effort.....

Q (Interposing) What do the words "Zu Schwach" mean? That is simple, is it not?

A That the person who is thirsting and hungry in bed, of course, has a certain weakness in his muscles and therefore, first of all, they did not want to put any pressure on him -- his blood pressure was taken after he first got up, and so forth.

Q This same patient on the 28th and on the 27th of August, in this case, he has a temperature rate above normal, does he?

A Yes, 37.3 and 37.2 in temperature, but that is not a rise in temperature in the sense of a sick person.

Q Now, on this same day, on the 28th, did you not find it necessary to give this patient either Sterofundin or Strychnine? The entry under the 28th on chart B-2 in pencil has been made illegible. The word Strychnine can be made out if you pursue it closely, and the word Sterofundin can be made out. Now, what did you give that subject



whose blood pressure was too weak to take?

A The blood pressure was 112 over 80. It was not too weak. Probably he also got Sterofundin probably because he -- that was administered to him on the next day -- that means the interrupting of the experiment. If a thirsting person is given 350 cc's Sterofundin intravenously the experiment has, of course, been interrupted.

Q Well, you had some trouble with this patient, didn't you? Aren't his pulse and temperature rather erratic?

A If you consider a temperature of 37.2 a strong disturbance of temperature, then I do not know what you would say to a person who has a fever of 41 degrees Centigrade. In any condition of thirst 37.2 occurs. Experiments have been described in which the temperature went over 38 up to 39 degrees Centigrade without causing any damage.

Q Well, on the 30th of August, the 31st of August, and on the 1st of September, as indicated on chart C-2, we see that the subject became rather cold on you, didn't he?

A The experimental subject became cold? With 36.4, 36.5, -- if first of all you consider 37.2 a high temperature, then 36.5 could not be considered cold temperature. A body temperature of 36, 35.6, is enough for normal temperature.

Q His temperature dropped down to 35.3, didn't it?

A Here?

Q Here.

A That means times two; that is 3 times 2 are 6; 35.6 was the lowest temperature.

Q Doesn't that indicate that the subject got rather cold?

A That means that the person is still within the scope of normal temperature; that does not mean anything else.

Q Well, now, the final weight entry, which is included under the 3rd of September, states here that on the 11th of September his weight was 62 kilograms, then that 62 kilograms is written over in ink with 64  $\frac{1}{2}$  kilograms. How do you explain that correction?

A That can only be explained by saying that apparently he made a mistake here, confused it with another one. Apparently he registered the weight of experimental person No. 1, erroneously marked it on chart No. 2, and then he corrected it because he noticed that he made an error. It is the same handwriting — the handwriting of the medical student Seins from Versailles, whom I mentioned yesterday, and whom I have not seen since September 1944. And I should like to ask you that this medical student should identify his own handwriting here.

Q This medical student obviously did not put this weight in on the 11th of September did he, because he said "un den", meaning about the 11th of September his weight was that; is that correct?

A He was a Frenchman who spoke only a few words of German, and probably he wanted to write "on the "un den", because frequently he used German terms which were absolutely not correct.

Q In case No. 1 he used only the word "den", didn't he?

A At the moment I cannot tell you any more why the medical student, this French medical student, at that time wrote "un den". That is the way it was determined at that time. What reason should we have had at that time to write about.

Q Where did this patient go after the 3rd of September?  
To the hospital?

A I did not send any one of my experimental subjects to the hospital except case No. 9 which came up during the preliminary period. Otherwise all the experimental subjects remained with me from the beginning to the end. I had the fever curves in the experimental room until the 11th or 12th, and then I took them away, except for group 2. They may have stayed there a few days longer. I looked over the results and wrote them down. The fever curves were carried on until the 3rd regularly, and from the 3rd to the 12th the temperature was no longer recorded. And on the 11th, probably the 12th, the final weight was determined. That is the weight which he then carried as the

weight at the time of discharge. If I had kept the curve longer and weighed them until the 15th, my weight balance might have come out a lot better.

Q Will you find the weight for us in this black book? For this No. 2 subject?

A In this black book, as far as I remember, there are no weights recorded at all.

Q I am sorry, your Honor, the black book does not have the weights which are indicated on the charts.

A It does not show any weights at all. The weights were not recorded anywhere else but on these curves.

Q Well then, on these charts we see in the last few days of the experiments, as opposed to the chart of case No. 1, that the urinary output is recorded under the date of the 30th and 31st of August, is that correct?

A Yes, that is correct. The medical man put it down once and another time he didn't — I did not consider the record of the amount of urine on this chart so important, because the amount of urine had been marked on the fever curve.

Q One question, your Honor, will you kindly tell us whether or not the urinary output indicated on charts 82 and 62 are recorded in the black book?

A On the 30th it says here, 524, that is, 500 is recorded here. On the 2nd, that is not exact; on the 2nd, 600, on the 31st, 600, is marked here, and there is nothing more recorded here either.

THE PRESIDENT: These records having been impounded by the Tribunal must remain in the custody of the representative of the Secretary General. If either party wishes to examine them during the noon recess, he may do so in the presence of the Secretary General.

The Court will now be in recess until 1:30 o'clock.

(Thereupon the Court recessed until 1330 hours, 11 June 1947).

11 June 47-A-K-13-1-Foster-(Brown)

Court I

AFTERNOON SESSION.

The hearing reconvened at 1300 hours, 11 June 1947.

THE MARSHAL: Persons in the court room will please take their seats.

The Tribunal is again in session.

WILHELM SIGLEBOCK - Resumed

CROSS EXAMINATION (CONTINUED)

THE PRESIDENT: The Tribunal having reconvened, notes the absence of defendant's counsel, Dr. Steinbauer.

MR. HARDY: Your Honor, Dr. Steinbauer is on his way up to the courtroom. He misunderstood the Tribunal and thought this afternoon's session would not begin until three o'clock.

DR. STEINBAUER: I humbly beg the Tribunal's pardon. I had supposed that the court would reconvene at three o'clock. That is why I was late.

THE PRESIDENT: Defense counsel being present, counsel may proceed.





BY MR. HARDY:

Q Dr. Beiglboeck on chart No. B-2 we find under the date 29 August, the 16th day of the experiment, an initial on the side of the chart "HP" or "C". Could you explain to us whether that is an "HP" or an "HC"?

A That must be "HP". That was the time when we were looking for a hypertonic solution.

Q Would you kindly repeat your answer, Dr. Beiglboeck, as to the meaning of this initial under date of 29 August?

A Many cases were interrupted by drinking and some by intravenous injections and some, as I said before, through a stomach sound. This was a hypertonic injection, namely, through the veins.

Q Well, is this some sort of a puncture?

A No, an injection into the vein.

Q An injection into a vein? Well, did you perform any punctures?

A Yes.

Q Did you perform any systernal punctures? Systernal punctures?

A You mean an occipital puncture? No, I can't do that. I don't know how. Never did that in my whole life nor do I know for what purpose in thirst experiments such a puncture would have been performed. That would have been senseless.

Q Did you perform any lumbar punctures?

A In individual cases in the salt water experiments I did perform lumbar punctures.

Q Did you perform any liver punctures?

A Yes.

Q Now, this is Case No. 3, your Honor. I will request the Tribunal to mark these three charts A-3, B-3, C-3. Now, this case No. 3, Dr. Beiglboeck, is also a hunger and thirst case, is it not?

A Yes.

Q Will you kindly read us the name of the experimental subject contained in the top left hand corner of chart A-3?

A Bernhard.

Q Spell that.

A Yes that is Bernhard.

Q Kindly spell that for us.

A B-e-r-n-a-r-d.

Q Now, under the 21 August on chart A-3, under the 8th day of the experiment, does the markings therein where the German words "Hunger 0" appear indicate the state of the experiment?

A Here also you must deduce from the weights that the experiment began on the 22. I do know that all the experiments began on the 22. I believe I recall now that on the day before, in the morning, I wrote down that there were to begin hungering and thirsting there and that is why that arrow was made there. 58.5, then on the 23 another weight, then on the 24th another weight, and so on.

Q The arrow with the blue circle found under date of 22 August, the 9th day of the experiment, on chart B-3, was put on this chart one year after the experiments were completed?

A As I have already said I put down all these arrows when I re-evaluated these curves but I can't tell you when that precise date was.

Q How many days was this person subjected to hunger and thirst if we assume that the experiments started on the 22 as you allege?

A The experiment was interrupted on the 8th day.

Q On the 8th day? Now where do you start to count the first day?

A 22. On the 8th day at noon, at 12:30, starting on the 22. Let me point out that from the 25 to the 27 there is a loss in weight of only 700 grams. This loss occurs when a person hungers without thirsting. That is certain proof that in the meantime this experi-

mental subject had drunk water. On other days he lost more than a kilogram and on this day 700 grams. This is one of those cases where the experiment was disturbed by the subject drinking.

Q Well, can you ascertain from looking at the section of the chart under the black blunt line in the middle of the chart and examining the vertical red lines which indicate the urinary output that this subject was getting water to drink?

A You cannot ascertain that from the amount of urine from a person who is thirsting. You can ascertain that from a person who is thirsting from sea water. You can't tell that when a person is thirsting because at the moment he received water he absorbs a great deal of that water. You can see that after the conclusion of the experiments when a man drank  $2\frac{1}{2}$  liters and only eliminated 500 cc in his urine. In other words the subject does not excrete all but absorbs a great deal of it. In this case the amount of urine is no reliable proof for the fact whether he drank or not. However, the difference in weight a person who is thirsting loses is a reliable proof. For it is impossible for a person thirsting not to lose weight, because he has to eliminate water not only through the kidney, but also through the lungs. In the other cases that we will come to those who normally received a good deal to drink and only fasted and got the same food, they lost daily 500, 400, 600, grams and you have to deduce from that that this man although thirsting and fasting, is eliminating only 100 or 200 cc of water through his lungs, his kidneys, or his skin. That is impossible. This man here certainly drank. He even admitted it. Moreover it can readily be seen from the relationship of the red corpuscles.

The number does not increase from 5,900,000 that he had, but decreases to 5.7 and then to  $5\frac{1}{2}$  million and this is certainly a sign that the blood was thinned down. That could only occur if he consumed fluid.

Q Well, now, on the 27 August is indicated on chart B-3, that is the 14th day of the experiment and the 6th day that he was subjected to hunger and thirst, if we assume that the commencement was 22

of August, or 7th day if we assume that the commencement was 21 of August, we note that the language, or words appear "Zu schwach" at the bottom here in line 5, which indicates that the blood pressure was too weak to take. Now, that appears under 27 August, under 25 August, under 29 August, and continually through the experiment. Now, what does that mean?

A At first in the preliminary period the blood pressure was taken while the patient was lying down. These are the records you have there. Then it was taken according to stress. That is known as the stress measure of blood pressure. For this purpose the experimental subject has to move, to take exercise. Usually let him do knee exercises, bending his knee. Now, I told the doctors that if the muscles become dried out, giving certain weakness in the muscles which was to be expected in the case of thirsting, should not be given the stress measure of blood pressure but their blood pressure should be taken only while lying down. That is what the words "too weak" mean. Too weak to do exercise. The man who wrote this down was a Frenchman and if he had known that this would become a matter of discussion in a trial perhaps he wouldn't have chosen this expression. It simply means taken when lying down and after exercise. This young colleague was not one of those who liked to work very much and consequently he wasn't too careful in what terminology he chose.



Q Then, those entries of "too weak" under the dates 27th, 28th, 29, 30th and 31st of August, do not indicate that the subject is ill?

A This is Case 3, I see. He had some intestinal difficulties. This experimental subject, I remember now.....

Q (Interrupting) Would you kindly repeat your answer to that last question, Dr. Baiglbosch, and at this time, Your Honor, I request the interpreter in English to speak louder because I have difficulty hearing the English over the voice of Dr. Baiglbosch.

A Can I go on? In this case, after the experiment was interrupted, the man had intestinal troubles in the form of a swelling of the abdomen. For a long time, he had not eliminated any solid waste material and so he had some pains and, for that reason, he was given strychnine in order to start his bowels moving again.

Q Well, Doctor, did the entries "too weak" under the 27th of August indicate that there should be cause for worry about this patient's condition?

A When a person is thirsting his musculature goes through a certain change. There is no cause for concern, namely, the muscles become weak because the muscles are dried out. That is no cause for concern, as he has perfectly normal temperature and pulse. It is a weakness in the muscles brought about by the fact that the muscles have been dehydrated because the man is thirsting. If you thirst for several days, the muscles will greatly change. They become hard and there is a certain debility in them.

Q Even after these symptoms appeared you continued to keep him on the hunger and thirst experiment until two days later, isn't that correct?

A This effect on the muscles is brought about by the thirst. This is one of the symptoms of thirst. You do not have a thirst condition unless you have this symptom. There is nothing dangerous in it. There is only one dangerous situation that can arise in a thirst ex-

periment and that is the moment when the body has lost more than a certain percentage of its body water. Nothing else is of any importance or danger.

Q Well then, do you maintain that these marks "too weak" indicate that, because of the lack of water, the patient was unable to get out of bed?

A That means that the muscles had given up water. That is a typical symptom of thirst.

Q Well, what would be necessary to take the blood pressure of a patient in such a condition as that? Couldn't that be taken under any circumstances?

A I did not get that.

Q Couldn't the blood pressure of a person in a condition as set forth in Chart B-3 under the date 27th of August, the 14th experimental day, couldn't that blood pressure be taken under any circumstances, or was it necessary to say "too weak" to take the blood pressure?

A The blood pressure has been regularly measured here when the men was lying down. If you measure blood pressure after the person has exercised - he has to go through some movements to take this exercise, and, since I didn't want these men, if they were already having difficulties with their muscles, to go through exercise, I told them "We won't have you get up any more. We'll measure your blood pressure only when you are lying down." This does not mean that we stopped taking their blood pressure. This was a different method of taking it; to wit, when the man is lying down and not after he has gone through exercise.

Q Well, in scientific recordings of experiments when you are recording blood pressure isn't usually the first blood pressure the blood pressure of the person while lying down and the second blood pressure is while a person is standing, and then a third entry would be made for blood pressure after exercise? Isn't that customary?

A The custom is that you take a first measurement when the man is lying down and then after movement. There are various methods, but the important thing is to ascertain the change in blood pressure that occurs between measuring it when the man is lying down and when he has exercised. This is the typical method.

Q Now, on Chart B-3, under the date 28 August, the 15th day of the experiment, would you kindly explain to the Tribunal just what these four entries mean? One with 350 cc, 150 cc, 40 cc, etc., of various drugs? Would you explain each one of those entries, please?

A This entry belongs to the next day. This is the fluid that was used when the experiment was interrupted. The intravenous injections.

Q Well, why didn't you place that entry under the next day rather than place it under the date 28 August?

A That is a question I should have to ask the medic who made the entry. This arrow obviously means that the experiment was interrupted and any introduction of fluid was an interruption of the experiment. I suppose that some one first entered the urine here and then the next person could not find space for his entry in the proper place. That is something I know very well at the time because it is clear that the interruption - it is perfectly clear that the introduction of this fluid into the person meant that the experiment was interrupted. That the interruption actually occurred is evident from the weights.

Q Well then, this entry in pencil, under the 28th of August, on Chart B-3, indicates that this subject was given 250 cc of steroidin, 100 cc of saline, 40 cc of glucose and 1 cc of kolamine, is that correct?

A Yes.

Q Would you explain to the Tribunal just what kolamine is?

A Kolamine is a circulation stimulant.

Q That is, a heart stimulant?



A A drug that affects the circulation, not the heart. I usually gave circulation drugs when interrupting the experiment not because it was necessary but because the heart had theretofore been working under different conditions. You can see that the pulse sinks here. In other words, there were cases of thirsting and fasting - as we know also from fasting cures - where the pulse and circulation is considerably slowed down. If he received fluid, all of a sudden the amount of the blood in the body is changed. Thirst leads to a reduction in the amount of blood, and in order to make this sudden change more tolerable to the heart I introduced occasionally this drug to affect the circulation, as you will see from many graphs. That was not any part of the treatment, but a prophylaxis.

Q Well now, we notice here, on the date of 30th of June, on Chart C-3, a considerable rise in temperature curve is continued for a period of four days. That is, the 30th of August, 31st of August, and the first and second days of September, and the continued administration of strychnine to the subject.

A I told you why that was. This man had an intestinal disorder, and a man who has not gone to the lavatory for many days, if he suddenly develops a swelling in the abdomen, you must assume that he is having difficulties with his digestion. Strychnine was simply given him as a tonic. His temperature maximum is 37.8, then it goes down to .2 and up again to .4. 37.8 is an increase in temperature which would not be mentioned in any text book as a state of fever.

Q Well now, on the 3rd of September, the last day of recording, which is indicated on Chart C-3, we note a considerable drop in the temperature of the patient. Was that drop a fatal one?

A This drop could not have been fatal because it was followed by a subsequent rise. It seldom happens that a dying person's temperature rises. That is almost impossible.

Q Well, in this case of Bernhard one of your most troublesome ones?



A He was one of the few cases that had a complication is so far as he had this difficulty with his abdomen. Then, I had the two cases with the muscular cramps. That was in Case 1, and then another one will turn up later. You can't speak of this as a serious or difficult case.

Q Let's look at Case #5 for the moment.

If your Honors please, I request that these three charts be marked "A-5", "B-5", and "C-5".

Now, could you kindly tell us the name of that experimental subject?

A That I can't tell you.

Q Has there been an erasure in that document in the space...

A Yes, but certainly not by me. That is a handwriting that I do not recognize.

Q Could that name be Gatz, G-a-t-z?

A That could be P-a-h, or it could be P-a-t-z, but so far as I remember we did not have any subject by that name.

Q Is that your handwriting?

A No.

Q Is that your handwriting of which the impression is legible beneath the handwriting you deny to be yours?

A No, that isn't either.

Q Do you know whether or not that document has been altered here in Nurnberg?

A Certainly not by me.

Q Did your defense counsel alter it?

A I am convinced that he did not.

Q Now under the 27th of August on Chart B-5 we note a pencilled notation which has been crossed out in blue pencil, do you see that?

A Yes.

Q What appears there prior to that crossing out in blue?

A Acetone positive.

Q Did you perform a liver puncture on this case V?

A No.

Q Under the entry 22 August on Chart B-5 the red arrow with the blue circle at the end thereof, does that indicate the beginning of the experiment?

A Yes.

Q Did you place that mark in there at the time of the experiments at Dachau or at some later date?

A I have already told you that I put down all of these marks when I evaluated the experiments. They were all put down later.

Q Now, the mark under the date 21st of August on Chart A-5 on the 8th day was put in at the time of the experiment at Dachau, is that correct, under "D", and the arrow?

A It is the same in every case. Every experiment began on the 22nd of August. That can be seen very clearly from the weights. I can only continue to reiterate what I have said, on the day before I determined who would hunger and thirst, who would get sea water, etc. and that indicates that the experiment would begin on the following day.

Q Then if an expert looked at this and did not consult the weights he would think the experiment began on the 8th day, the 21st of August, and then you changed your mind and began on the 22nd -- there are two marks indicating the beginning of the experiment?

A Every specialist would look, first of all at the weights, otherwise he wouldn't be a specialist.

A Let's turn to Ex. VI. Will the Tribunal kindly mark these A, B, and C. A - Let me say regarding case five that there is a change in weight from one day to the other where a man loses only 200 grams in one day. He too then must have drunk water.

Would you kindly notice Sheet A-6, the section where the names should appear and tell us whether or not that name has been erased?

A I can't tell for sure.

Q Well, is it customary to make out a set of charts on a patient and not put his name on anyone of the three charts you made out?

A I didn't understand.

Q Did you customarily in the course of your experiment compile data on a specific individual and not put the person's name on the charts that pertain to that particular case?

A The name of course, is entirely unimportant.

Q Is it not obvious to you the name once appeared on this chart A-6, and has been erased; may I suggest to you that the name was Schekowski?

A I can't read anything here.

Q Do you see the erasure there?

A I can't be sure that I do.

Q Did you erase the name off these charts of the 4th experimental person?

A I erased no names at all.

Q Did defense counsel tell you that he erased them?

A No.

Q You never talked to your defense counsel about the erasure of names in these charts?

A No.

Q Case No. 7, — if your Honors will kindly mark those A, B, C, and D. Now, I call your attention to chart A-7, could you kindly tell us whether or not the name has been erased from this chart, the erasure there is obvious, isn't it?

A It would seem so, yes.

Q Do you know who erased that name?

A No.

Q Our experts have found that the first three letters that have been erased there may possibly have been the letters L-A-I; does that help your remembrance to tell us who this experimental subject was?

A I can see an "L" here for certain. The other letters I am not so sure of.

Q You cannot recall looking at that erasure just who the experimental subject was, can you?

A No.

Q This case No. VII is this the first case of persons given Scheefer water to drink?

A Yes.

Q And how long did this person drink Scheefer water?

A I estimate 12 days.

Q He drank Scheefer water then from the 21st or 22nd of August?

A From there on.



Q If he drank it from the 22nd of August, does that account for the urinary output registered on the 23rd, or would it be usual to record a urinary output on the day you began your experiment?

A From the day on when the experiment began the amounts of urine were set down.

Q Then if you began the experiment on the 22nd then you would immediately start collecting the urine of the person upon whom you were experimenting, and isn't it more likely that this experiment began on the 31st as indicated by your own red notation on chart A-VII under the date 31st?

A The amounts of urine were measured for a few days previously in all the cases. I simply had them written down here as a balance. Before the intake was free there was not much point in measuring the fluids or urine before the amounts were strictly measured and calculated. Consequently, the urine was measured roughly from the 16th on.

Q As I correct in my understanding that when a person is subjected to exclusively seawater to drink that the urinary output will exceed the intake, disregarding this chart?

A Then if seawater is consumed the elimination of urine is greater than the consumption of water, but if you have different food, if that is what you mean, perhaps then anyone who is suddenly given less to eat, and these people were taken from 3000 calories down to emergency rations, any transition to fasting or sort of fasting cure is associated with elimination of water.

Q Well, isn't it possible in the first instance the seawater that you applied the Schaefer method to was impure, that is Schaefer method hadn't been applied correctly, and that accounts for the excessive urinary output on the 23rd, of this case B-VII?

A Literature on fasting throughout the whole world, which amounts to 4,000 pages at least, will readily prove to you that as soon as a person is receiving too little food, there is a vast increase in the elimination of water and that it had nothing to do with incorrect handling of the sea water by the Schaefer method. The fact that the Schaefer water is in order can be seen from the fact that the urine extracted is more than the water drunk and the amount lost through the skin and lungs. It is made apparent in the urine, of course, consequently the figures show here more water was consumed than was eliminated in the urine. If you eat food, which is rather large in salt contents, such as these people received in their preliminary food and then you feed to them sea ration emergency caliber food, then this amount of salt is used up. That is an iron law. Then, for this reason the body must eliminate some more water.

Q Now, I interestingly note, Doctor, that this experiment continued until the third day of September and then you continued to observe this subject until the 12th or 13th day of September; how do you explain the fact that you observed this subject until the 13th day of September and indicated your observations on charts C and D-7 and did not observe the hunger and thirst group any longer until the third day of September; was that because the ones using or drinking the Schaefer water survived?

A I can readily explain that to you why that was done. When this experimental group was still in the experiment with Schaefer water, namely on the 1st of September, the second group had already begun its series with sea water and those who were still in the experimental state had their temperatures taken, whereas those who had finished the experiment no longer were having their temperature taken, they were not on the bed but already on the table. Then, more or less by predication, this temperature watch was continued on the charts here. The measurements of temperature and pulse were not continued because it would have meant a great deal of work.

A This is now the chart of subject eight; would Your Honors kindly mark those A, B, C, and D.

Now, on Chart A-8, under date 21 August, the eighth day of the observations, we note that you have indicated that this person was to be subjected to the Schaefer water and then the marks indicating that have been crossed out in red pencil; when did you make those corrections?

A These corrections were made in Dachau. This was an experimental subject who had diarrhea on the 15th. In other words, a catarrh of the intestines, thus I postponed beginning the experiments on him until his weight was in order. At first he weighed 51.5 kilograms, then after two days of diarrhea, he lost some weight, he then recovered it and attained a weight of 53.3 kilograms. In other words, he gained more weight than he had at the beginning. This is a definite indication that the intestinal influence he had, had been corrected, and then he started on the Schaefer experiment.

Q Well, when were these three markings made with the red and blue pencil made on the 21, 22 and 23 of August, let us treat with the 22nd of August, that is the red arrow with the black circle at the end there which has been stricken out with the red pencil; when did you make this line?

A This change from the 21st to the 23rd was made in Dachau. When I looked these drafts over I possibly thought the experiment began on the 22nd and then I saw my error so I crossed out the mark and moved it over.

Q When did you make the clumsy attempt to erase the lines making a urine output on the 22nd in Chart B-8?

A I did not erase that, that is not erased at all.

Q I think you will find that our experts will state that is an erasure there, Doctor?

A It looked to me as if there was something sticky there, as if something stuck to that part of the paper.

Q Wouldn't it have been feasible that you attempted to erase the red



line in order to conceal sea-water consumption on the 22nd?

A If I had erased here, I would not have erased the line in the middle of a line. That would really have been sort of stupid as I would have begun at the beginning to erase the line. I would not erase a piece out of the middle of the line as that would be somewhat more or less stupid.

Q That is questionable whether you would start at the beginning of the line or in the middle of the line; at any rate it is obvious from this document, Your Honors, that someone attempted to erase the red line and seeing the erasure would have been impossible, then stopped.

A I am absolutely sure that there was something sticky which fell on the piece of paper and for that reason the red line did not take on the paper, that is why it looks as though it was erased, something like rubber or something sticky fell on the paper, maybe it was food.

THE PRESIDENT: Witness, the blue line of the draft is also missing as well as the red.

THE WITNESS: It seems to me that something fell on the paper here.

THE PRESIDENT: My question was that the blue line of the draft is also missing; part of it, is it not?

THE WITNESS: You seen this one? Yes, all the lines are broken off or interrupted here. Something fell on it, you can see a larger spot is discolored on the paper. Something fell on the paper. I think that when they were pasting the tables together or something, some of the paste fell on it; that is what it looks like to me. You can see very clearly that the continuation of the lines is there.

BY MR. HARDY:

Q We will turn now to Case No. 9, Your Honor, kindly mark those. Now, this is the case, is it not, of the experiment subject who obviously was too ill to undergo the experiments, hence you dismissed him?

A This is an experimental subject who had diarrhea on the 15th and on the 20th had bronchitis with a bronchial pneumonia heart; that was



an accurate case of illness. This is experimental subject 9.

Q This is the case of the Mettback boy, isn't it?

A Yes.

Q Yes that the subject that you attempted to call here as a witness?

A Yes.

Q And he did not have to undergo the drinking of sea-water in your experiments, did he?

A But, he saw then.

Q What happened to him after he had been dropped on the eighth day; did he still stay at the experimental station?

A He had a relative there who visited him all the time and he was transferred to the hospital.

Q He was transferred to the hospital on the eighth day?

A Yes.

Q While still carrying a temperature considerably higher than normal?

A At that time when transferred he had a temperature of 39 degrees centigrade.

MR. HARDY: I turn now to Case No. 11, Your Honor. If you will kindly mark these.

THE PRESIDENT: Take these, Mr. Hardy, and place them in order.

MR. HARDY: This, your Honor, is the first sheet. Just a moment --

BY MR. HARDY:

Q. Now, this Case No. 11 is the first case wherein we note that the experimental subject was used on two occasions. Is that correct, Dr. Beiglboeck?

A. Yes.

Q. Now, what was the purpose of subjecting this man to drinking sea water for a period of seven days and then terminating the experiment with the lapse of five days and then putting him back on sea water for a period of five more days?

A. This man had drunk fresh water several times. From the 24th to the 25th he lost only five hundred grams weight. Although he was fasting and was losing weight he only lost five hundred grams weight. That is a sure indication that he drank water. Also from the 26th to the 27th he only lost five hundred grams weight although at this time he should have lost that much through the kidney alone. In other words, this would mean that he didn't lose any weight at all from fasting and didn't lose any through perspiration or through the lungs. In other words, it is perfectly clear that he drank fresh water and for this reason the experiment was useless, so what happened here was that for a few days he drank fresh water and then he began the experiment all over again.

Q. Did he volunteer to be resubjected to sea water experiments? This is a case of a man drinking plain sea water, isn't it?

A. Yes, and he did volunteer.

Q. And after having drank water and objected on the experiments during the first seven days he then volunteered and allowed you to subject him to further experimentation although he found out it was very distasteful and uncomfortable?

A. I have already told you that he did that in order to get those cigarettes I mentioned.

Q. Oh, then after he had cheated you offered cigarettes to him so that he would continue the experiment?

A. When I caught him drinking I told him that he would get no cigarettes and then he came to me and later said he wanted to do an experiment again.

Q. Can you tell us the name of that subject? Look over those three charts and see if you can see any erasures thereof -- that is, up in the section where the name should appear. Can you see on chart. No. All the name, Siegfried Schmidt, which has been erased?

A. Yes, that's possible. Yes.

Q. Who erased that name?

A. I don't know. I didn't.

Q. Do you know whether your defense counsel erased it?

A. I am sure he did not.

Q. What would be the purpose in erasing the names of these charts; doctor?

A. If I remember correctly, we were to erase all the names at that time. I think we were told then that we were to use no names.

Q. Is it possible that that man's name was erased because he was later exterminated, so that he wouldn't talk?

A. These fever graphs at the end of the experiment I took away from Dachau with me. I returned the experimental subjects under the conditions that I have already described to you with the request that they be treated as convalescents for a few days and that they receive the additional rations promised. That any of the subjects were annihilated, that I considered out of the question, at least in connection with my experiments. Of course, I can't tell you what happened to the subjects later when I was no longer in Dachau. That I cannot tell you but it is sure that no experimental subjects had to be annihilated because of my experiments.

Q. Do you know whether or not the names had been erased when you had these documents in your custody here at the Wurnberg jail in January?

A. I didn't have them in my custody in January. I got them only at Easter. I have already told you that. I didn't pay any attention to the names. I simply looked at the weights.

Q. You mean you didn't pay any attention to the names of the subjects?

A. No, I didn't because I had the names in the black booklet anyway.

Q. Of course, they are not in the black book any more.

A. That is so.

MR. STEINBAUER: Because I have the cover, Mr. Hardy, and you are not going to get it either.

MR. HARDY: Before I proceed to the next case do you wish to adjourn until the afternoon recess? I am going to proceed now to case No. 13, your Honor.

THE PRESIDENT: That is the next chart?

MR. HARDY: Yes.

THE PRESIDENT: We will proceed with one more.

BY MR. HARDY:

Q. Has the name been erased from this chart?

A. I don't believe that there was a name, only on the last time -- it would have been on the first chart.

Q. Is it true that this experimental subject was also interrupted, that he drank sea water for a period of seven days, then was interrupted, then drank sea water again for a period of five or six days, and in the first instance drank five hundred cc's and in the second instance drank one thousand cc's?

A. This subject from the 24th to the 25th, only lost a hundred grams weight. It can easily be seen from this that on that day he drank at least a liter of water. From the 25th to the 26th he lost three



hundred grams. From this you can see for certain that he drank at least a half of a liter of fresh water. In other words, for practically three days this man wasn't in the experiment at all for all practical purposes. For that reason I let the man continue to drink and I proved to him that he had drunk. Then he applied again.

Q. You offered him cigarettes if he would go through further experiments?

A. I didn't offer them cigarettes for that reason. I told him that he was not going to get any cigarettes because he had drunk. Then he said, "I want the cigarettes anyway and I apply again."

Q. Of course, he cheated once and you now were going to let him try again and you didn't know whether he would cheat the second time. How did you decide whether he was cheating the second time? Is this one of the patients you tied to the bed?

A. I didn't tie anybody to any bed. In the second experiment he also drank. Here you can see the gradual loss of weight. You can see from that gradual loss that he didn't carry out the second experiment either in a proper way.

Q. Now, the date "7 September" on Chart D13, we note the red arrow indicating interruption and the initials thereunder in blue pencil "L.P." What does that refer to?

A. That means liver puncture.

Q. What was the purpose of the liver puncture in this instance?

A. I have already told you that Spingor asked me to make liver punctures.

Q. Why did you only follow this patient for a period of four days; that is, the 8th, 9th, 10th, 11th and 12th, perhaps, of September after having subjected him to sea water for such an extended period of time when you followed the patients that drank just plain Schaefer water for a period of six or eight days?

Court 1

A. I have already said that these curves were continued in connection with all the other curves. The curves for the second group to which this man, of course, belongs were continued to the 12th or 13th of September, and since that Schaefer group was still in the experiment when this series began on the 1st or 3rd of September, and since the charts were still hanging on the wall they also were continued. This man went up to 61 kilos, though when he was taken in it was 57.5; that is a clear indication that he suffered no injuries; if he had been injured he would not have been released with a weight higher when he entered the experiment. This man conducted both experiments poorly. He drank so much fresh water that he might just as well have thrown those records of his away. This was no experiment at all.

Q. Now, I notice that this patient or subject used, whose name has been erased was 20 years of age. Did you have the written consent of his parents to perform a liver puncture? Did you have the written consent of his parents to perform this on him?

A. No, I did not. You do not ask anybody in the Wehrmacht; nobody is asked in the Reich Labor Service or in the Wehrmacht. No 18 year old boy when inducted into the army is asked if he wants to. If a man is a soldier and is in pressing need of an operation, the parents are not asked whether it can be carried out. If you wait until that happens the man would probably be in the meantime.

Q. Was this boy in the army?

A. Possibly he was one of the soldiers -- former soldiers.

MR. HOLBY: This is a good track, Your Honor.

JUDGE SPRING: I want to ask a few questions.

BY JUDGE SPRING:

Q. Doctor, in connection with the sea water experiments, what is the purpose of making liver punctures?

A. In some of these cases it was seen that after fluid was taken into the body the liver became somewhat enlarged. In my

Court 1

opinion that resulted from the fact that some of the salt from the sea water remained in the liver, and that the enlargement of the liver, which also happens when a large amount of fluid is injected, but is very sensory, in this case because of the residuum of salt in the liver lasted for somewhat longer time. And, when Spinnar was there he saw that the liver had become enlarged, and asked himself what the cause of that might be; and he said, he took a look into this and made a few punctures so we can find out whether something of a pathological nature has remained in the liver."

Q What is the technique or procedure for making a liver puncture?

A There is a local anesthetic administered in the area of the liver and a needle is inserted into the liver so a part of the liver is sucked into the hypodermic needle and that concludes the puncture. It might be compared with a skin marrow puncture.

Q Did you explain to the experimental subject that you were going to make a liver puncture?

A Yes, I did. I told him that I wanted to make a puncture; I told him he would feel no pain; I told him nothing would happen to him. Then I gave them the local anesthetic. This is an operation that can be carried out in just a few minutes. Most of the time is used in waiting for this local anesthetic to take effect. The puncturing takes less than a minute.

THE COURT: The Tribunal will now be in recess for a few minutes.

(Thereupon a recess was taken).

THE MARSHAL: Persons in the court room will please find their seats.  
The Tribunal is again in session.

BY MR. HARDY:

We will now proceed to Case #14, Your Honors. Kindly mark these A-14, B-14, and C-14. Also attached to Case #14 is this microfilm of curves. Professor Baiglböck, will you tell us what this microfilm purports to be?

A That is an electrocardiograph. It is not the one of Case 14, but apparently it only slipped in there erroneously, but it is the electrocardiogram of Case 9.

Q Thank you.

Now, in this Case #14 we note, on the 27th, or on Chart B-14, considerable rise in temperature, and then, on the 29th, an exceptional rise in temperature. Would you tell us, Dr. Baiglböck, whether or not this was one of the patients you had considerable trouble with?

A I don't know what you mean by considerable trouble. After an intake of salt solution, it is seen quite frequently that small temperatures arise. That is called table salt fever. With children, such a temperature rise, up to 38 or 39 degrees centigrades. In this case, the temperature went up to 37.6 during the course of an injection of hypertonic salt solution. That is no dangerous event, and immediately after the intravenous injection they had a short rise in temperature. That is something which occurs quite frequently, as I have already stated several times before. That the interruption was really undertaken intravenously is also shown here. On the next day, the temperature was again quite normal and it remained normal.

Q Would you tell us how long this subject was subjected to 500 cc of sea water?

A That was discontinued on the 8th day.

Q Of course, if the mark indicated under the 22nd is the date of the commencement of the experiment, and not the 21st.



A Yes, I can only again and again give the same answer to the same question. If a person is brought into a condition where he loses water, whether you let him thirst or whether you give him sea water to drink, then the person must lose weight, and this experimental subject too lost 2 kilograms on the first day, then it gradually became less. Furthermore, from the 25th to the 26th, this experimental subject drank water for here, although he is fasting, he lost only 400 grams. He should have lost approximately 1,000 grams. Therefore, it is certain that he drank, and it is probable from the 27th to the 28th, where he lost 600 grams altogether, he drank some water again. Thus, it is an experiment which could not be regarded as a seven or eight day long lasting sea water experiment, because it was interrupted by intake of fresh water several times and, in my estimate, more than one liter.

Q On the 29th, which is indicated on Chart B-14, what was the pulse rate on that day?

A 60.

Q And what was the temperature rate on that day? The highest temperature rate?

A Well, there was a short rise which appeared after the intravenous injection of liquid. I don't know whether the pulse was taken at the same time too. Probably that was higher too at that time.

Q Well, isn't it true that when the pulse reaches the rate of 60 and the temperature reaches the rate of 39, that that man is rather ill?

A As far as I can see from the curve, the temperature was taken in between here. Probably because immediately after the injection he got the chills. As far as I can see, they took the pulse when he had a normal pulse. Probably during the time when he had this short rise in temperature they did not take the pulse. That is an occurrence which disappears quite quickly. This rise of temperature after the injection of physiological salt is not a result of my experiment. It did not happen for the first time in Dachau and had nothing to do with sea water,

but it is quite a frequent reaction when liquid is injected intravenously. Even in the case of a healthy person, this can occur. In itself this is quite an insignificant occurrence.

Q What marks indicate, under the date of the 29th, that he received injections?

A That means that by means of intravenous injection of liquid the experiment was terminated.

Q Is that what this arrow means? The red arrow under the date of the 29th of August?

A The red arrow? The experiment was discontinued by means of a hypertonic solution.

Q Now, on the 1st of September, we note that no urinary output is recorded. Was it because this patient may have been unconscious at this time and, therefore, incompetent, he was suffering from a flaccid paralysis of the bladder?

A It does not mean anything but that this amount of urine was not recorded. Perhaps from that date on, the urine output was no longer measured. You can find that out from the black notebook, whether the measurement of the urine output was continued.

Q Kindly look at the black notebook and determine that, Dr. Boigbocock.

A No, the last measurement in the 14th case is recorded on the 31st of August. That is, from the 1st of September on, the urine output was no longer measured. It does not mean a paralysis of the bladder nor unconsciousness, but one sees that apparently he was feeling very well because, during that time, he had, after all, gained already 2 kilograms and he continued to gain in weight, and I certainly don't know what reason anybody who had been taken out of a thirst experiment should still be unconscious five days later. It is a physiological principle that if somebody is taken out of a thirst experiment and given water, that he recovers immediately.

Q Well, this is not five days later. This is two days later.

A Four days. 1, 2, 3.

Q 1, 2, 3 days it would be then, from the 29th to the 1st. Then how do you explain the fact that you only observed this patient for a period of five days after he had been rather ill, as noted by the temperature curve of the 29th on Chart B-14?

A If someone, after physiological salt solution has been administered to him, or sugar solution, during a half-hour has a rise in temperature which disappears then immediately, this does not signify that this person was seriously ill but it is a reaction which has been observed more than one hundred times, a reaction to the intravenous injection of liquid, and that he did not have a paralysis of the bladder after the termination is evident from the fact that on the other days when the measurements were still taken there was still a urine output, so if any person should become unconscious and have a bladder paralysis that would occur during the thirst. If it did not occur during the thirst, then it wouldn't have occurred three days later either. That doesn't exist. It is medically impossible.

Q This is Case #17, Your Honors. Would you kindly mark that A, B, and C and D?

A You are not submitting Cases 15 and 16.

Q No, there is nothing salient there.

Now, could you kindly tell us the name of that subject? I note that his name has been erased from A-17 and from B-17.

Court I

A. Its probably Oleschkevitch.

Q. Could that be O-l-e-s-c-h-k-e-v-i-t-s-c-h?

A. Yes.

Q. Who erased that, Doctor?

A. I didn't.

Q. Do you know who did?

A. No.

Q. Can you tell us from the top of that page how old that subject was?

A. 17 years old.

Q. Did you have any written consent from his parents to experiment on him?

A. No.

Q. Did you customarily use 17 year old boys in medical experiments?

A. Normally not, but at that time the War had already been going on for five years.

Q. This 17 year old boy was obviously one of the cheats too; you had to interrupt the experiment because he obviously was drinking water, inasmuch as his urinary output of the 23rd, 24th, 25th and 26th wasn't substantially more than his intake?

A. In other words on the 25th he had a weight of 47.6 kilos, and on the 26th his weight was 47.3. Then he reduced from 48 to 45.7, and from that to 45.3. And those two times he certainly must have had something to drink.

Q. Then did you interrupt the experiment because he must have had something to drink or was it your purpose here to experiment on this young man for a period of 12 days with an interruption which would assimilate rain at sea?



Court I

A. Well, this was interrupted here quite regularly on the 29th. Anyhow, I never had the intention and nobody had the intention to assimilate rain at sea, because rain at sea that is something the experimental subjects produced themselves, not because it was within the scope of our experimental program, but because secretly they obtained water.

Q. Then there would have been no purpose in having conducted an experiment wherein you would have subjected a person to seawater for a period of 6 or 7 days then interrupt the experiment and give him a small quantity of water, and then again put him back on seawater for a period of 5 days in the interim, making an attempt to assimilate an actual rainfall while a person is on a raft in an open sea, wouldn't that be of interest?

A. I do not believe that a person on the high seas could have it happen to him that in five days they could obtain about 10 liters of water, or even more by means of rain; in the interim more than 8 quarts, probably 10 quarts of water were taken in.

Q. When you discovered this boy was cheating had you stopped the experiment and offered this 17 years old boy cigarettes to volunteer for further experiments, is that it?

A. I did not offer him cigarettes. I have to repeat that again and again. Those who did not carry out the experiment correctly and whom we found out, in accordance with the agreement, which I had made before I took the cigarette premium away from them, and then they said, "We want to have cigarettes after all, and in the second group we shall try the experiment again." I could assume the responsibility for that absolutely. If a person during the first experiment lost only small amounts of water for instance the loss

Court I

of water in the case No. 17, it was only about 7 per cent of his water balance that is a loss of water which is absolutely not dangerous. During the second experimental period he probably lost even less.

Q. We turn to case 18, if your Honors will kindly mark that in the order of sequence. Can you decipher the name on the chart D-18 which has been erased? Could that possibly be the name Jacob Bamberger?

A. Yes.

Q. Was Bamberger a Jewish subject?

A. No.

Q. You are sure of that?

A. Yes, I am quite certain I had only gypsies.

Q. Bamberger is a Jewish name, isn't it?

A. I wouldn't say so. On the contrary Bamberger is a very wide spread name.

Q. Tell us how long this person was subjected to 500 cc of seawater?

A. This subject was practically very--

Q. Tell us from the charts before you and not your pencilled notes, that is charts B-18, C-18 and D-18, how long was this subject subject to 500 cc sea water, you can observe that quite clearly from the charts?

A. On the 10th day the experiment was discontinued and this case shows especially well how such an experiment was carried on; I can show you from the 24th to the 25th that is already on the third day of the experiment he loses 100 gram. It is quite certain that he drank at least one-half a liter or half a quarter of water. On the 25th to 26th he does not lose any weight at all, even though

11 June 47-A-22-Maloy-(Hartenburg)

Court I

suffering from hunger, starving. It is quite certain he drank at least one quart water, then he loses a kilo. Then he loses 600 gram, and then starts to drink again. Here from the 28th to the 30th he does not lose any weight, thus he obviously again drank from three-quarters to one quart of water. Thus this is a case that during this extended period lost 7 kilos. That this loss of weight during that time was reached is not shown by the first page at all. From that it can be seen without doubt this was not a loss due to lack of water but a loss due to hunger. So that is a case which cannot be considered a seawater experiment at all. The loss of water is ----

Q. This person after having been subjected to 10 days drinking seawater was interrupted for four days and put back on seawater again; so in total he drank seawater 14-1/2 days?

A. Yes, of course one can continue an experiment with seawater for 13 years if in between fresh water is administered again and again. The essential in a seawater experiment is how much water is lost by the body. If the water is replaced again then the body is in the same condition as before. One cannot say the man drank sea water from time to time, if he had done so without interruption this would have been a dangerous experiment. If during the 9 days he was in this experiment this subject had not during 5 days drank a half liter to a liter of water than the experiment would have been a long one.

Q. Lets turn to Case 21. Now, this patient or subject received 500 cc. seawater for a period of 6 days, 6-1/2 days, is that correct?

A. No, he received, two, three, four days, -- during 5 days on the 5th day during the night it was discontinued

11 June 47-AK-22-5-Maloy-(Wartenburg)

Court I

at 2300 o'clock, I can remember this case quite well. It was a case which had a tetanus attack, during the night at 2300 had a tetanus attack and I was called and caused an interruption. At that time he was given intravenously, or apparently drank 200 grams of mineral water, I guess intravenously, then calcium and then stereofandam, and then this on the top I can't read it, the mark especially, it was sugar solution.

Q. Now, Doctor, the marks here stop absolutely in a rather erratic manner, and how urine output is shown for the last two or three days, just what happened to this patient?



A: The people recovered completely afterward and as you can see he also was discharged with the weight of 57 kilograms after he arrived with the weight of 55 kilograms, that is he gained 2½ kilograms and I discharged him weighing 2½ kilograms more than when I received him.

Q: What do you rely on to indicate that he was discharged weighing 57½ kilograms; this mark made in ink at a later date?

A: Here, as in all cases, the final weight is recorded. You can see in all curves it is in the same handwriting, always the hand writing of the French medical student.

Q: Well, now, from the 30th on Chart C-21 to the 31st, we see that this man gained from 50.3 kilograms to 52.9 kilograms, which is approximately four pounds in weight in one day and he continued to gain in the next four days up to 55.9 which indicates he gained in a period of four days nearly ten pounds; didn't you in fact water-log this patient?

A: Naturally the gain of weight takes place very quickly. This is not a specialty in Case No. 21. It is quite obvious the water he has lost in the experiments was replaced in a very short time. I can point to you from case to case how quickly they gained weight, some lost weight within two or three days and then gained three or four kilograms and the entire amount of water is replaced quickly.

Q: Isn't it unusual to gain four or six kilograms in a period of four days?

A: It is unusual for a normal person, but it is not unusual if someone has been thirsting now is drinking water. If you now drink two quarts of water and then weigh yourself a day, then you would weigh two kilograms more.

Q: Is that pencil note on the back of B-21 in your handwriting?

A: No, it is the hand writing of one of my medical orderlies.

Q: Will you read that?

A: Yes. Subject still does not walk; occasionally he has pains in the area of the heart; general condition good; color of skin normal; the

muscles not especially irritable; vasculi normal without any clinical results; heart T, that is heart tone pure, loud and dispensing of the heart, not enlarged.

Q: You will note on the back of the page on the sheet A-21 "Logbook?"

A: Yes.

Q: Is that the same.

A: That is a carbon copy, yes.

Q: Do you allege here that this patient here was perfectly normal at the end of the experiments?

A: Yes, I maintain that.

Q: This is No. 22, Your Honor.

Q: Can you tell us what happened to this patient, he was subjected to sea-water for a period of seven and one half days; was he not?

A: Six and one half, perhaps.

Q: Including three days of hunger?

A: Yes.

Q: Your Honor, I note that this subject on the 22nd - shown on Chart B-22 - was subjected to sea-water, and then on the 25th that is three days after he was drinking sea-water, is also subjected to hunger, so then he had a period of hunger for three days as well as the sea-water?

A: Everyone of these experimental subjects were subjected to the same experimental program. During the first days they got sea-distress diet and then nothing more. That was not a specialty of Case No. 23, but that was the plan of the program and thirty people are not hungry.

Q: Now on the 22nd the experiments began; but I notice when you evaluated these charts you were rather careless. It indicates here by your little arrow with a circle around it that the experiments did not begin until the 23rd; now when did the experiments begin on the 21st as alleged by the chart itself or on the 22nd as you would justifiably say by the weights or on the 23rd as you have indicated by the arrow you yourself placed on the charts one year after the experiments began?

A: All of the experiments began on the 22nd, with the exception of this one also, that was No. 7 and that began two days later.

Q: Now this patient I notice also has sort of an irregular temperature and pulse curve and he gained a considerable amount of weight in a period of four or five days; is it possible that that patient became water-logged?

A: This patient at the beginning of the experiments weighs 56.6 or 57 kilograms. During the experimental period he lost water and he drank as much as he needed, therefore he replaced the amount of water lost and again obtained the same weight he had before. The restoration of the normal condition, if you call that water-logged, then I admit that he was water logged and was filled up with water.

Q: Now on the last chart, that is C-22, we have a pencil notation on the back thereof; is that in your handwriting?

A: No that is also the handwriting of my medical non-com. It says: Good, general condition; vessels, alright; heart alright; liver not enlarged; dampening of the liver as at the beginning of the experiment.

Q: Is that word translated or interpreted "dampening" or "dullness"?

A: It means the sound you hear, when tapping on the liver. I don't remember the English technical expression.

Q: Would you kindly read that in German again and I will ask the interpreter whether or not the last sentence could be translated and the last phrase could be translated as "dullness". At the beginning is the word "dullness" or "dampness"; would you read the German Doctor, it is a question to the interpreter?

A: The German word is Dämpfung, it is a certain medical expression. If when the chest is struck and if it makes a sound or if in some places you get a light sound, or in some places a so-called dampening sound as though a damper had been put on it, therefore it says here that the noise is the same as it was at the beginning.

Q: Well, what does it mean?

A: It could be interpreted "dull".

Q: Professor Biegelbeck, what does it mean "at the beginning"; the beginning of what does this dullness or dispnoea appear?

A: Well, I suppose that in this case too there was a slight enlargement of the liver temporarily and at the final examination, which was apparently recorded on September 12th, I dictated that the sound of the liver was again the same as at the beginning. The man would have been ill only if he at the end did not have that sound of the liver, that would have been an abnormal condition. The dull sound of the liver, is a normal condition.

Q: Then this applies to the liver and not to the lungs; you don't mean therefore at the beginning this applied to the lungs but not to the liver?

A: From this, apparently.

Q: Was he a fit subject to be subjected to sea-water experiments?

A: Yes, certainly, otherwise I would not have included him from the very beginning. I examined all my experimental subjects at the beginning quite thoroughly.

Q: Case 23, Your Honor. Now this man was given 500 cc of Berke water for the duration of ten straight days; wasn't he?



A. On the 10th day is interruption, yes. I want to point out here, too, that from the third day to the fourth day there was a loss of weight of only four hundred grams, to the next day also only five hundred grams. That there exists the probability or even the certainty that he drank here. The loss of weight from the next to the last day is also very slight.

Q. This man's temperature and pulse rate showed a decided drop throughout the eight to ten days of the experiment in a somewhat alarming manner. Then on August 30th you interrupted the experiment and have placed here the initials "C.H." That is on the entry of August 30, the seventeenth day on Chart C23.

A. This is supposed to be "P.H." also. It is always the same. It is not written well.

Q. What was that?

A. That means that some intravenous injection of the hypotonic solution in the experiment was discontinued.

Q. How much did this man weigh on the 30th day of August as indicated on C23, Chart C23? He weighed 53.8 kilograms, did he not?

A. It is written very badly but you can see here it has been transferred. It is supposed to read "59.8."

Q. When was this pencil notation "59.8." put in there?

A. If you will look over the charts this pencilled note is in every one, because this is apparently connected with the fact that the fever chart had not been recorded yet and that on the 29th the weight is still recorded in pencil and was then transferred in ink. That can be seen from curve. In other words, it was written in Eschau.

Q. Then you don't believe that it was 53.8 and that he gained eighteen pounds in one day?

A. That would really be a miracle.

Q. Could it be possible if you waterlogged a person and gave them considerable amounts of fluids that they would gain eighteen pounds in one day?

A. If somebody is given liquid he eliminates as much as he has in excess of what he needs. One would have to cut out the kidneys in advance so that the entire amount of water that a person is given should be retained in the body. You have the excuse me, but I really have to tell you only a bloody lay-person can ask such a question.

Q. Is it possible that this is the man who died of that Tschofenik refers to in his affidavit? This man completed his experiment on the third day of September.

A. As regards the dead persons of Tschofenik, only he knows something about them, and in my experiment not a single one died.

Q. Would you know? You left there on the 15th of September.

A. Yes, certainly, I cannot know, of course, who died on the 20th of September, but one thing I can know as a certainty is that in my experiments and their consequences nobody died of my experiments and their consequences. That I know with absolute certainty.

Q. Do you have any ability to write shorthand, doctor?

A. Yes, I know shorthand.

Q. Are these your stenographic notes on the back of C23?

A. Yes.

Q. Would you kindly read those to the Tribunal, transcribe them? Would that be too difficult or would you like to have me give you my transcription of those to all you?

A. It says: "The thirst requires forms that are difficult to bear. The patient is anesthetic."

Q. Pardon me, doctor. It might be helpful if you used this transcription. I have had experts transcribe the notes, and the interpreters can follow us more readily and I have the English copies also for the Tribunal to follow you, and if you have any discrepancy to point out with the transcription as set out in the English --

JUDGE SEHRING: Are you offering this, Mr. Hardy?

MR. HARDY: That is a problem, your Honor. I want to have him transcribe the notes and when the Tribunal settles who will offer this document into evidence, either the defense or prosecution, at that time,

if necessary, I will give this a document number, I think we will have to wait to clarify that point later.

Q. Would you check that transcription, Professor?

A. That is correct, except in the first line it says --

BY THE PRESIDENT:

Q. You have read your own stenographic notes, have you not?

A. Yes, and I have compared them with this transcription.

Q. What you should now read is your own version of these shorthand notes as you say they are correctly read. You understand that? You can read them from this. You can read them from that, as you corrected it. You can read them from shorthand direct or from the typewritten transcription, as you please. Read slowly, too, please.

MR. HARDY: While he is reading that, your Honor, I suggest that he stop at the corrections he wishes to make and we can correct our English copy as well as the interpreters can correct the German copy.

THE PRESIDENT: He will call their attention to the corrections which you make.

A. "The thirst assumes forms difficult to endure". It reads in the second version is "already unendurable". It does not read that way.

"The thirst assumes forms difficult to endure. The patient lies there quite motionless with half-closed eyes. The patient lies apathetically. He takes little notice of his surroundings. He asks for water only when he awakes from his somnolent condition.

"The appearance is very bad and dejected. The general condition gives no cause for alarm.

"Respiration somewhat flatter, moderately frequent.

"Respirations 25 per minute.

"The eyes are deeply haloes," it is supposed to read. Here it says "open"

"The turgor of the skin greatly reduced."

"Skin dry, tongue completely dry, whitish coating in the middle fairly free."

"The mucous membranes of the mouth and the lips dry, latter covered with crusts. Lungs show slight very dry bronchitis, lower border VI-XI." It is supposed to read "XI". Originally it said "XII" and apparently I corrected it to read "XI".

"Sharpened vesicular breathing". That is omitted here, of course, "breathing".

"Sharpened vesicular breathing" -- that is a medical expression.

"Heart beats very low, poorly audible. Palpability of the pulse felt. Palpability of the pulse worse." Here it says that the pulse is "felt" and it should be "filled". It is not so well filled -- not palpability but the pulse is less well filled, less full.

Then this which is described here as undecipherable reads: "The cell walls are somewhat thickened." Here I probably said "more strongly thickened".

"Liver 2 $\frac{1}{2}$ -3 fingers below sternal margin, rather soft, moderately sensitive to pressure."

"Spleen soft" is wrong. It says: "Spleen reuterio, enlarged in a ring form, slightly enlarged."



"Musculature hypotonic. Joints can be extended more than usual. Calves slightly sensitive to pressure." Then what is described as illegible here reads: "Indicated welt formation - vertical, strong welt formation horizontally."

That refers to the reaction of the muscle, to the knocking, the so-called ideo-muscular welt.

Q. Would you kindly start that paragraph again and read it as it is written?

A. It reads here: "Musculature hypotonic. Joints can be extended excessively, calves slightly sensitive to pressure; indication of horizontal welt formations. Strong vertical welt formations." Up to this point this is how it reads in the text, and in order to explain it I added that we were concerned with the so-called ideo-muscular welt.

Further the text continues: "Reflexes" with two little crosses, that is, they react strongly. "Abdominal reflexes", also two little crosses. "Romberg" as it says here. "Babinski negative".

"Left" -- here it says "Left" "phenomenon". Here on the left, "phenomenon of Becker", "Oppenheim negative". Rosolimo negative. "Bulbous reflex bad". "Tonus of the bulb of the eye bad". "Bulbous reflex" with a little cross -- that is positive. Interruption.

Q. Now, Professor Beiglbach, looking over these stenographic notes in the sentence in the first paragraph, which will be the third sentence, which states: "He takes little notice of his surroundings", has an erasure been made in the stenographic notes in that sentence?

A. No; I don't see any.

Q. In place of the word "little" which appears in the present text on the back of C-23, was there originally a symbol, stenographic symbol for the word "no" and then the word "no" was erased and replaced by the word "little"?

A. I see here that actually something else had been written there; probably at that time I wrote over it. I don't see anything erased.

Q. Now, in the sentence in the same paragraph, the first paragraph, the fourth sentence where it states: "He asks for water only when he awakes from his somnolent condition", did another word appear in the same place as the character for "somnolent condition"? Did another word appear in the same place as the character for "somnolent" now appears and can you make out whether or not that other character that has been erased was the word "semi-conscious" and has now been replaced by "somnolent"? I think the original character can be well-recognized to read "semi-conscious".

A. What is legible under here says: "Numb, drowsy".

Q. After the sentence that I have just read: "He asks for water--

THE PRESIDENT: I did not understand the witness' explanation of that last double reading of the shorthand. What was your explanation, witness?

THE WITNESS: The German word "benommen", numb.

THE PRESIDENT: Numb? Not unconscious?

THE WITNESS: Numb.

BY MR. HARDY:

Q. In the first instance, in the sentence: "He takes little notice of his surroundings", is an erasure noticeable there in that the word "no" has been replaced by the word "little"?

A. Something has been written over.

Q. Will you show that to the Tribunal, please, that character that has been written over? Would you point that out to them, doctor? Point out the character in that sentence: "He takes little notice of his surroundings", and point that out, this character here (indicating) on the second line of characters.

MR. HARDY: Here it is, your Honor, the last character on the page.

BY MR. HARDY:

Q. Now, would you show the Tribunal also where the word "Semi-conscious" or "numb" appeared and that has also been written over? That is the last character on the third line.

A. Yes, here (indicating).

Q. Now, after the sentence: "He asks for water only when he awakes from his somnolent condition," which is the fourth stenographic line on the back of Chart C-23, we notice that an entire line or half line has been erased. This half-line had previously contained stenographic symbols but they are now no longer identifiable. Is that correct?

A. Yes; something has been erased here.

MR. HARDY: Your Honors can see the red eraser that has been used to erase that half line of characters; the impression of the eraser is still obvious there.

BY MR. HARDY:

Q. Now, Professor, in the sentence in the next paragraph of stenographic notes, the second sentence reads: "The general condition gives no cause for alarm." Is that correct?

A. Yes.

Q. Now, throughout your writing of these characters you, between each words, usually space, leave a space, to indicate another word, do you not? That is very clear throughout your transcription. You have left spaces between each character signifying words. Is that correct?

A. Yes, that differs -- well, that differs. Sometimes some words are written closer together, quite closely, for example here (indicating).

Q. Well now, here in this sentence where it says, "The general condition gives no cause for alarm", the word "no" -- that is, this character here -- does not have the spaces between it that all the other characters on the sheet have, does it? In fact, the symbol for "no" touches the previous symbol for "General condition", leaving no spacing. Did you add the word "no" at a later date in a different pencil?

A. No. I do that quite frequently when something is written

above the line in stenography that I write it over again.

Q. Now, if you will turn to the sentence in the third paragraph which reads: "Respiration somewhat flatter moderately frequently", appeared originally, did it not, before an erasure was made? The word, instead of "somewhat", didn't it read originally "Respiration is flatter, moderately frequently"?

A. It still says so: "somewhat frequent; moderately frequent." I wrote that twice.

Q. Well, now, how does that sentence read?

A. "Respiration somewhat flatter, moderately frequent; respiration 25 per minute."

Q. Did the word "is", the character for the word "is", appear in the sentence before a change was made?

A. What word?

Q. "Is" -- "i - s".

A. No.

Q. Can't you clearly see in that sentence that the word "is" has been erased and in its place the word "somewhat" has been written, the character "somewhat"?

A. No.

Q. You can't see that. Did you look at it through the glass, doctor?

A. In stenography I write the word "is".

Q. Now, later in this same sentence, Dr. Beiglböck, after the word "flatter", didn't the word "hardly" appear originally in place of the word "moderately"? The word "hardly" was erased and replaced by "moderately" and then crossed out twice.

A. Here it said "troublesome".

Q. It says, "respiration flatter". It could say "hardly frequent" before the changes, couldn't it?

A. "Moderately" it says here. "Hardly moderately frequent" it could say.



Q. Has the character been changed at all?

A. I said already originally it said "troublesome".

Q. Have any erasures been made in that sentence?

A. It was written over, written over.

Q. And then crossed out?

A. Yes.

Court I - Case I

Q. What word was written over? Is that word there that is written over that is now legible the word "moderately" or is that the word "hardly"?

A. "Hardly" it did not say here. It said "troublesome".

Q. Well, which character said "troublesome", the one that is legible now or the one that has been written over?

A. That says "moderately it was troublesome".

Q. Well now, in the sentence which starts out in the eight paragraph with the words: "Heartbeats very low poorly audible," in that sentence has a character been erased and another one written over? Has the character "scarcely" been erased and replaced by "poorly"? I believe the marks of the original symbol for "Scarcely" can still be clearly distinguished, can they not?

A. Yes, that is correct.

Q. Who made these changes, doctor? Did you make them yourself?

A. Yes, I did.

Q. When did you make them?

A. I can't tell you that any more exactly when I did it.

Q. Did you make them at Dachau?

A. No.

Q. Did you make them in Nurnberg?

A. Yes.

Q. Did you erase these shorthand characters that appear on the fourth line here in Nurnberg?

A. Yes, I did that too.

Q. Now, doctor, these notes that are on the back here, I note that you state that the bulb of the eyeball -- that the eyes are deeply halved. That is the fifth

Court I - Case I

paragraph. What does it mean if the bulb of the eyeball goes soft in a patient?

A. It doesn't mean that they become soft but that they sink back into the head. It is a sign of dehydration.

Q. Well now, we have here in the first paragraph, the paragraph that "Thirst assumes forms difficult to endure," and so forth. Now, in this somnolent condition that is referred to -- now, is the half-closure of the eyes in a somnolent patient a bad prognostic sign?

A. The half closed eyes, of course, can also express sleepiness, somnolence. In this case that was the case. It is apathy. One sort of dozes. Sometimes one sees something; sometimes one opens the eyes and then one closes them again.

Q. Well now, had the original word that you had written in that paragraph, that is "semi-conscious" or "numbness" -- would that convey an entirely different meaning than the word "somnolent"?

A. Semi-consciousness, drowsiness, and somnolence are about the same.

Q. Do you mean if a person is sleepy that that is the same as a person that is numb?

A. Well, I mean sleepy -- yes. Numbness, of course, is not the same as sleepiness, but in these cases it was that they dozed. I don't want to say sleepy but they were drowsy.

Q. Could you tell us what the medical term "lagophthalmus" means? I will show you the word, doctor and spell it for the court reporters: l-a-g-o-p-h-t-h-a-l-m-u-s. Can you tell us what that word means medically?

Court I - Case I

A. Lagophthalmus -- that was not a lagophthalmus. It was a drowsy -- lying. It says right afterwards that he asked for water. Thus it was not a lagophthalmus.

Q. I haven't asked you whether or not these conditions are symptoms of lagophthalmus. I am asking you what is lagophthalmus medically?

A. Lagophthalmus being the open condition of the lids.

Q. Well, is it a general condition in adult patients which is often found when the patient is approaching death?

A. Yes -- well, this condition did not exist here.

Q. I am asking you about the medical term lagophthalmus now, as a medical man. You are a physician. I am not asking you now to compare this with the conditions of this Subject No. 23.

A. Lagophthalmus can arise for varying reasons. Of course, it can also occur in a temporary unconsciousness. It is not a certain sign that the person is near death.

THE PRESIDENT: You have been asked to describe the condition, what the condition is. Now, just please describe the condition in the words stated by counsel for the prosecution.

THE WITNESS: I said already that it is the remaining open of the lids, that they remain open.

BY MR. HARDY:

Q. Go ahead.

A. Thus by lagophthalmus one means an open condition of the lids with the eyes turned around, the eyeballs. That is, the eyeballs are in the same condition as they are during sleep but the lids remain open; but that isn't what was talked about here. It says expressly that he is lying there with his eyes half closed. If it had been this



Court I - Case I

condition I probably would have used the more appropriate medical term, lagophthalmus.

Q. When did you, as appears in these notations, resort -- which is in the last sentence -- resort to the bulbous reflex examination?

A. On the occasion of the other reflexes I also examined that one.

Q. What type of examination is that, doctor?

A. It is a reflex. One presses the bulbous and at the same time one takes the pulse.

Q. Could you demonstrate that, what a person does to take a bulbous reflex examination, on yourself? What do they do?

A. One presses on the eyeball (indicating).

Q. Well, isn't that a test most commonly used to decide whether an unconscious, pulseless and motionless man is dead or alive?

A. No. It is a reflex which in any clinical examination this is examined. In a dead person this is not examined in any case, not at all. It is quite an ordinary reflex such as "Romberg" and "Babinski" and other abdominal reflexes. So the bulbous reflex was examined here too.

Q. Now, the next sentence just above "Bulbous reflex positive" we see the words "Tonus of the Bulb of the eye bad." Now, what does that mean?

A. That means that the bulb tonus is bad. It says here the bulb tonus is bad. In a thirsting person this can be seen too, when the eye ball becomes somewhat softer.

Q. Hypothetically, Doctor, disregarding this remark about "tonus of the eye ball bad" for the moment, what does it mean medically to a physician if the bulb of the eye ball goes soft in a patient?

A. That can mean very different things.

Q. Does it mean that death is approaching?

A. No.

Q. Under no circumstances?

A. Under some circumstances yes, but here, in a thirsting person, no.

Q. I didn't say in a thirsting person. I said hypothetically, clinically, what does it mean to a clinician when he says if a patient's - if the bulb in a patient's eye ball goes soft? Does it have any prognostic sign whatsoever to him?

A.. Well, not necessarily.

Q. Now, this test "Romberg 2 plus" or whatever it may be. What does that refer to - Romberg, plus, plus? What is a two plus Romberg?

A. Romberg is a reflex or an examination concerning the so-called ataxia. Why, in these patients, not only in the one that is described here, but in most cases, it was a positive Romberg, that is connected with a weakness of the muscles. If the muscles are somewhat weakened and one gets up, one is a somewhat uncertain and that results in a positive Romberg.

Q. Well, does it mean that the patient can no longer stand on his feet?

A. That means that when he is standing on his feet he

is unsure.

Q. Well, isn't that the same symptom as the witness Tschofenik described in the patient who shortly thereafter died?

A. I don't believe that the witness Tschofenik can describe a Romberg. If I remember correctly, the witness Tschofenik described that a long time afterwards. Somebody from the Internal Clinic came and was X-rayed in his station and he thought that this man from the Internal Clinic was one of my experimental subjects. If a condition of thirst is interrupted by the administration of liquid, then this condition disappears and the patient recovers instantly. Later on, he cannot fall ill with it any more. That does not exist in medicine even if you try as hard as you can.

Q. Well, I am not contending that Tschofenik was qualified to determine what a Romberg plus plus was, but Tschofenik could well have determined whether or not the man who came to be X-rayed was able to stand on his feet, couldn't he? He could observe that as a layman, could he not?

A. Every person who is thirsting has difficulty standing on his feet. After three or four days of thirst it is already very difficult to stand on your feet because the muscles are dry and they tire very quickly and because there is a certain uncertainty of the movements which arises therefrom. This does not mean anything but the fact that the muscles have been deprived of water.

Q. And Tschofenik said that there was nothing wrong with this man's lung condition, didn't he? The man he mentions in his affidavit. There was no other pathological reasons for the man to die, didn't he?

A. Yes, well I believe that the people who Tschofenik

let die - that there was no reason that they should die. The man that we are concerned with here, #30, he was discharged by me with a weight of 80 kilograms.....

Q. (Interrupting) Just a moment. Let's stay in Case 23. #30 you can take up later. Do you exclude the possibility that in Case #23 the man you describe in such a condition as indicated by your stenographic notes, is not one and the same man as described by Tschofenik in his affidavit?

A. These stenographic notes refer, first of all, not at all to Case 23 but to Case 30.

Q. Why are they written on the back of case 23?

A. Probably it was lying next to it and I made the notes here before the interruption.

Q. Then, it's Case 30 that the man was in such a condition that he might be one and the same man as outlined by Tschofenik in his affidavit?

A. The man who Tschofenik described did not exist. But these notes refer to Case 30.

Q. I have no further questions today, Your Honor. I will continue the examination tomorrow if you wish to adjourn at this time.

DR. STEINBAUER: Mr. President, I only want to ask you whether I should order the witness to come again tomorrow. The witness Metzbach.

MR. KADY: Your Honor, in that connection, the witness Metzbach, according to the statement of counsel, lives only in Furth, Bavaria, which is only a matter of a mile from here, and I don't see that it will be necessary to call that witness immediately. He could be stalled off until a later date and called at the convenience of the Tribunal inasmuch as he lives only in nearby Furth.



THE PRESIDENT: I think it will be better to wait for that witness until he can be called later since he lives only a few miles from Nurnberg. He will still be available as far as you know as a witness at some later time.

MR. HARDY: Very well.

THE PRESIDENT: Put these in order. It is called to the attention of all parties that all these records have been impounded and are to be turned over to the custody of the Secretary General.

The Tribunal will now be in recess until 9:30 o'clock tomorrow morning.

(A recess was taken until 0930 hours, 12 June 1947)

Official Transcript of the American Military  
Tribunal in the matter of the United States  
of America, against Earl Brandt, et al,  
defendants, sitting at Nurnberg, Germany, on  
12 June 1947, 0930, Justice Beals presiding.

THE MARSHAL: Persons in the court room will please find their  
seats.

The Honorable, the Judges of Military Tribunal I.

Military Tribunal I is now in session. God save the United  
States of America and this honorable Tribunal.

There will be order in the court.

THE PRESIDENT: Mr. Marshal, will you ascertain if the defen-  
dants are all present in court.

THE MARSHAL: May it please Your Honor, all defendants are  
present in the court.

THE PRESIDENT: The Secretary General will note for the record  
the presence of all the defendants in court.

MR. HARDY: May it please the Tribunal, will it be possible  
for the Marshal to move the other microphone down to this table so  
that we can use it for the purpose of this interrogation?

THE PRESIDENT: Mr. Marshal, will you bring the movable micro-  
phone down?

MR. HARDY: While we're waiting for him to bring the movable  
microphone down, Your Honor, defense counsel for Earl Brandt has  
requested permission to interrogate Walter Neff, the witness who  
appeared before this Tribunal earlier in the prosecution's case in  
chief. He has filed his application to interrogate Walter Neff and  
that is agreeable with the prosecution. Defense counsel desires a  
ruling of the Tribunal granting him permission to interrogate Walter  
Neff.

THE PRESIDENT: Counsel for defendant Earl Brandt having re-  
quested permission to interview Walter Neff and the prosecution  
having no objection, the Tribunal orders that the request of counsel

for the defendant Karl Brandt is granted and defense counsel may interview Walter Neff.

WILHELM BEIGLBOECK - Resumed

CROSS EXAMINATION - Continued

BY MR. HARDY:

Q Professor Beiglboeck, as I understood yesterday, the stenographic notes, which are found on the reverse side of Graph #0-23, refer to Case #30. Is that correct.

A Yes.

Q Then at this time, Your Honor, I would like to have Case #30 marked A, B, and C.

Professor Beiglboeck, on Chart B-30 you have made a mark or an arrow with a blue circle on the end thereof, indicating the beginning of the experiment, and this arrow is drawn in a curved fashion which is rather difficult for me to decipher. Now, could you tell us just when this experiment began? Whether it began on the 22nd day of August, the ninth day of the experiment, or whether it began on the 23rd as indicated by the arrow?

A The experiments all began on the 22nd.

Q How do you account for the irregularity of the arrow which you have drawn in Chart B-30?

A I can't remember any more why I made the sign there.

Q This sign, of course, was made when you evaluated the reports some months after the experiments had been completed at Dachau?

A Yes.

Q I may point out to Your Honors what I am referring to in that Dr. Beiglboeck's arrow to indicate the beginning of the experiments, which he maintains began on the 22nd of August, which coincides with the fact that the blue vertical line under the black blunt line in the middle of the graph on Chart B-30 indicates that the subject received 1000 cc of sea water, which would be more logical to assume that the

experiment began either on the 23rd or 24th, rather than as indicated by this irregular arrow.

Now, Professor Beiglböck, this experimental subject is one who drank 1,000 cc of sea water for a period of how many days?

A For nine days.

Q Is it obvious from Chart B-30 and C-30 that this experimental subject cheated and drank normal water?

A That did happen on the 25th. From the 25th to the 26th he lost only 300 grams of weight. From the 28th to 29th, he lost only 200 grams. Therefore, in those two days, he certainly drank fresh water. From his retrocide it is also visible that the values decrease here again, then it increases, then it decreases again, and then, apparently, he is thirsting again.

Q Then, of course, the lack of indication of excessive urinary output, as opposed to the intake, is indicative that the subject cheated?

A Well, in any case, the urine output is much too small as it is recorded here. It must also be one of the cases who did away with some of the urine output. At first, I thought, when I saw these amounts of urine, that in these cases there was retention due to the salt, and that confused me, and I thought that, at first, some salt is retained, because, in the urine analysis, small amounts of salt were contained in the urine and therefore, at the moment, I was not certain of the course this experiment was taking. For if salt is retained, water can be retained too and, therefore, it is possible too that the loss of weight is slight. Only later on when I calculated the results I found that he must have thrown away some of the urine output.



Q. On the 28th it shows an indication that the subject has lost two kil. of weight; the urinary output would not indicate that he should have lost weight, would it?

A. No.

Q. It just why you state that it is obvious that this subject must have thrown away some of his urine?

A. It became obvious because in the period immediately following the experiments there was no increased elimination of salt. If there had been a retention of salt during the experiment then in the period following the experiment this salt which had been retained would have had to be eliminated; and from that I could recognize that my original opinion that there was retention of salt, and that therefore the amount of urine was reduced, could not be correct, but that the urine must have been thrown away.

Q. On the 28th of August on Chart B-30, the 15th day of the experiment, we note in the graph section the initials "L.F." What does that mean, Doctor?

A. In red pencil that means lumbar puncture.

Q. Can you tell us what was the purpose of performing a lumbar puncture in this subject?

A. At that time he explained somewhat about nephrosis, and I imagined that if retention of salt had taken place, the salt in the blood as well as in the brain fluid must have increased; therefore, I believed that if I would undertake a lumbar puncture I could reduce the store of salt in the body fluid. That was the reason.

Q. Now on the 30th of August, as indicated on the Chart B-30, the 17th day of the experiment, we note the familiar red arrow with a red circle at the end thereof, indicating an interruption in the experiment, the initials "d.F." in red pencil; will you tell us why and what that

means and why you performed that?

A. E. P. , I have said already, it means that the interruption was made by an intravenous injection of a hypotonic sugar solution, and in some cases salt solution, in the case of thirsting persons.

Q. And then in the same block that is the 30th of August, in Chart C-30, the 17th day of the experiment, we see immediately below the initials "EP" in red pencil in blue pencil the initials "L.P."; will you tell us what that means?

A. In blue it means liver puncture.

Q. Will you tell us what was the purpose of performing a liver puncture on this subject?

A. That was always the aim. I have already told you that I made some of these liver punctures because Professor Springer told me at the time that one should see whether this slight enlargement of the liver was accompanied by some changes in the liver.

Q. From these charts is there any indication that this patient or subject became ill? I note on the 30th of August in Chart C-30, on the 31st, that his temperature did rise above normal, and then we note of the 1st, 2d, 3d, and 4th of September a considerable drop in temperature; was this subject an ill man?

A. This slight rise in temperature after the conclusion of the experiment happens in very many cases. That is a temperature of 37.4 cent.; that is practically no fever; and later on he had normal temperatures. Moreover, he very quickly gained weight.

Q. And these descriptive notes in shorthand on the back of Chart C-23, I refer to No. 30, indicate the condition of this subject that is charted here on charts A-30, B-30,

and C-30?

A. That is the condition immediately before the discontinuation. That was on the evening of the 30th of August, in other words. The condition which is described here, is the condition of a strong dehydration, that is a thirst condition. The changes which I described here concern the muscles, the hypotonic condition of the muscles, the increase of the reflexes, which are seen on the basis of these changes in the muscles, the dehydration of the mucous membrane, which I described as dehydration here; a certain apathy, which is expressed by thirst.

Q. Professor Siegelbeck, in these stenographic notes on Line 4, where the erasure has been made from the middle of the line to the end of the line, in these stenographic characters, can you recall now what has been erased, and what appeared here before the erasure?

A. I cannot recall the words, but it was a description of thirst condition. I wrote "asked for water," and "again and again for water." "The thirst is very extensive," or something like that was written down there too.

Q. Now, doctor you have had the opportunity to think over during the course of last evening your examination yesterday, and you have told this Tribunal that these stenographic notes were altered by yourself here in Nurnberg; are you prepared to tell this Tribunal now just why it became necessary for you to alter these stenographic notes?

A. I ask permission to be allowed to make the following explanation. I changed these notes before these sheets were handed in, that is after they had been returned from Prof. Volhard. I made some changes in these stenographic notes only, and then I told my defense counsel, whom I had not informed about this, as I want to state expressly, we want



to withdraw the weight chart. I was immediately sorry, because I had changed something. I originally had the intention to submit the weight charts of these persons, because I believe from the changed weights alone one can see on the whole how this experiment developed. And then, when I had committed this thoughtless action, immediately my conscience bothered me, and I told my defense counsel I shall not submit this; but I want to state that I did not make any changes in the rest of the report on the course of the experiments; that in the urine amounts, as well as in the temperatures, and especially in the case of the weights, they are definitely the original values as also in the case of the blood pressure, --- as in what you see here on the front pages of the chart nothing has been changed, since these charts arrived here.

Q. Could you tell us just what was your reason for changing some of the stenographic notes?

A. Because the description as it was here is a description, which on a person who does not know a condition of thirst, leaves an impression which perhaps is stronger than the actual condition was.

Q. Do you have anything further to say about these alterations, Doctor? You say at this time explain to the Tribunal anything else in connection with these alterations if you wish?

A. Well, I want to state again that I am very sorry that I did it. I, as I said, I only had the intention to submit the charts to show the weights and not because of the other results of the medical examinations, because I am of the opinion that from the weight charts one can recognize without doubt, first, how much weight the experimental subject lost, secondly, one sees from them unequivocally on which



days water was drunk in between, and thirdly one can see clearly from them that immediately after the conclusion of the experiment in the case of all the experimental subjects there was a gain in weight, and fourthly, one sees that when the persons were discharged in most cases they had again reached their original weight.

BY JUDGE SEERLING:

Q. Well, Doctor, how do you explain the fact that names have been crossed from many of these charts?

A. This crossing of the names must have been done before. I did not do that here. On the front pages of these charts I did not change anything here. It is possible that this happened already in Gochau. I can't tell you that. It is possible that later on I crossed them too. I did not cross them here.

Q. During the course of an experiment, considering that your experimental subject is one who has been put on a salt water procedure, how much weight will such an experimental subject be expected to lose each day during the course of an experiment?

A. Theoretically one can assume the following: If someone drinks 1,000 cc of sea water, the kidneys, which receive sea water containing 2.7 percent salt water, will eliminate this as a 2 percent solution on the first day or second day; in other words a urine output of 1,350 cc is necessary in order to eliminate the entire amount of salt. In addition, water is eliminated through the skin and through the lungs. One can count on it amounting during the first days to 500 to 600 cc. This elimination of water is then reduced in the following days, that is, considerably restricted. That would be a loss of water of 850 to 950 cc and that would be the loss of water per day. In addition, these experimental subjects lose not only water but through the change in the food they eat they have to lose in weight what a person who is fasting is losing and this amount can be calculated from the experimental group which drank the Schaefer water. These experimental subjects did not lose any water; therefore, they are a suitable group to decide how much is lost through starving. I also calculated these changes in the weight and always deducted that from the entire loss of weight, so that one can from that see how much is lost due to the water. I calculated the following values and found out that through hunger alone on the first day 1,000 cc is lost; on the second day 1950 cc is lost; on the third day 2,400 cc is lost; on the fourth day 2,500 cc is lost; on the fifth day 2,850 cc is lost. This is always the total. Then 3,400 cc on the sixth day, 3,500 cc on the seventh day and 3,780 cc on the eighth day.

These values, which I had gained as average values for the Schaefer group, I compared with the statements made in medical literature and that agrees with the amounts which had so far been observed in loss of weight with fasting and thirsting experiments. One thus has to calcu-

late that an experimental subject on the average loses one and a half kilograms per day if they drink 1,000 cc of sea water. One has to consider that during the time when the experiments were carried on daily about 500 cc has to be attributed to loss due to starving, so that a gaining of weight and weight remaining on the same level during the experiment mean that considerably more sea water was taken in than was conditioned by hunger. I may perhaps point out some experiments which were carried out relatively well.

Q. I have to ask you that in particular in this. Will the experimental subject be expected each day to lose an increasingly greater amount of weight than on the preceding day?

A. These figures, which I have stated, are always the total in each case; that is, the loss of weight in the preceding time is always added; thus there must be a progressive loss of weight. In a case of fasting it is so that gradually the loss of weight is reduced. That is the difference. During the first days they are greater than during the latter days, while the loss of water is not considerably reduced, and if the kidney concentration were found, it is possible that no water is lost through the urine but through the skin and through the lungs about 350 cc are lost. The experiment, which gave more or less successful results, is from this 1,000 cc of sea water group. At the beginning the weight is 87.5; the next day 85, then 83.5, then 81.5 and then 80.3 and here there is a weight loss of one kilogram and I believe that some water had been drunk in between. In that manner the loss of weight would take place if the experiment were continued regularly, while lesser losses of weight, that is, less than one kilogram per day, show in this experiment with certainty water was being drunk.

May I perhaps pull out these charts and in the form of a written report submit them in order to show where from case to case they drank water?

Q. Here is the thing I am interested in. In the course of an experiment is the place eventually reached theoretically where from a

certain day on the loss of weight will be expected to be substantially the same each day instead of progressively greater, or perhaps will a state or condition be reached in the experiment<sup>al</sup> subject where theoretically he has lost all of the weight that he can and then from day to day thereafter his weight will remain substantially the same? Do you understand?

A. Yes. This is perhaps true only to a certain extent in the case of thirst experiments. If somebody starves and thirsts, the loss of weight due to the starving is gradually reduced to 200 or 250 grams, but the loss of weight due to the water output becomes progressively smaller in the case of thirst. If we administer salt solution, a certain loss of weight is forced, because the elimination of salt must be accompanied by water. Even if the kidneys were to concentrate very well and if the lung and skin still eliminate very little water, there still must be a loss of weight, due to that and fasting, about one kilogram.

What confused me here was the fact that due to the throwing away of the urine very little salt was eliminated per day. Due to that fact it would have been possible theoretically to save water, and that the loss of weight was caused by the starvation alone. That was the first opinion I had on these losses of weight because I did not know at first that the experimental subjects drank water on the side; therefore, I assume that. In the beginning, therefore, this confusion resulted and therefore the experiment was not always discontinued when the loss of weight was not accordingly, and that is medically possible.

Q. If the defendant is of the opinion that the preparation of any statement or a table of these losses of weight would be helpful to the Tribunal or will throw light on the case now before the Tribunal, such a statement may be prepared and offered to the Tribunal by defense counsel. Its admissibility as evidence will then be considered when it is offered.

MR. HARRY: Your Honors, I would like to proceed now to Case 25. Would you kindly make that A, B, and C, please?



THE PRESIDENT: Before proceeding to that, I would like to ask the witness regarding Case 30, in connection with which you made the stenographic notes. What was the age of that experimental subject?

THE WITNESS: He must have been about, as far as I remember, 24 or 25 years old.

THE PRESIDENT: Do you remember his name?

THE WITNESS: I believe you can see that from the chart. Krotschinski was his name.

THE PRESIDENT: That is all. Proceed.

BY MR. HARDY:

Q. Case 25, Professor Beiglboeck, is that a case where the subject was drinking sea water treated by the Berka method?

A. No, it is a case— Oh, the Berka method, yes, I confused that with the Schaefer method, but it is the Berka method.

Q. Can you tell us whether or not this subject cheated in the course of the experiments?

A. This experimental subject on the 24th and 25th stayed at the same level of weight; therefore, he must have taken in water, a liter of water. Furthermore, from the 26th to the 27th there was a relatively small loss of weight. Furthermore, from the 30th to the 31st there was a loss of weight of only 300 grams; thus he must have drunk at least three times.

Q. Well, now, I note on the 28th of August, in Chart B-25, the 15th day of the experiment, that the temperature of this subject rose above normal and again on the 29th of August his temperature was about normal. Now, in the course of an experiment when a person's temperature increases to that extent would you not consider the fever a good reason for stopping the experiment?

A. The temperature of 37.2 or 37.5 degrees centigrade during an administration of a great amount of table salt is what we call the "table salt fever," "sodium chloride fever." It is not a real fever but a rise in temperature which is caused by the administration of salt.

Q. Now, on the 31st of August which is on chart C25, the 18th day, we note here that by the familiar red arrow with the red circle on the end thereof, that the experiment had been interrupted and then I see a stamp indicating an x-ray had been taken. Could you tell us the purpose of having the x-ray taken on this date for this subject?

A. This experimental subject had bronchitis: That is, dry bronchitis of a throating person. I had an x-ray taken in order to see whether anything else was wrong with the lung but the result of the examination was negative.

Q. The x-ray form with some markings therein contained, under the date 4 September, 22nd day, on Chart C25, purports to be the results of the x-ray ordered the 31st or is this an additional x-ray?

A. That is an additional x-ray. The patient then got a fever three days after the conclusion of the experiment and caused an acute bronchitis and then I again sent him to be x-rayed.

Q. Did this fever that we see, that skyrocketed up to 39.8 give you cause for worry that is indicated on the date, 3rd of September, on Chart C25?

A. Yes, of course. That's why I sent him to be x-rayed, because he had bronchitis.

Q. Who x-rayed this man?

A. I believe it was a French x-ray specialist.

Q. Where was the x-ray taken?

A. In the x-ray room.

Q. That's the room in which Techofenik worked?

A. Yes, it was.

Q. Now, I note on the date of September 1 that there was no indication

of any urinary output of this patient.

A. That probably was not recorded. May I ask you to show me the notebook?

C. Sure.

A. They forgot to record it, on the 25th of August, he had 870 cc's urinary output.

MR. HARDY: I wish the records to show, your Honor, that the urinary output which is lacking on chart C25 for the date, 1 September, is contained in the book which has been referred to as the "black book," indicating that these reports in the book are all a part of the same situation on the reports of these experiments.

C. What did the two pencil markings in the interior of the diagram under the date, 4 September, on Chart C25 indicate -- that is, the x-ray diagram, the pencil marks contained therein? Do they convey something of significance to you?

A. Well, at that time I received a written report on the examination and from that diagram I can today no longer state what the results were exactly.

C. Now, I also note that the pulse curve terminates from the beginning of the 4th of September but the fever curve continues until the 6th of September. What is your explanation for that?

A. Probably, the pulse was no longer taken, only the temperature, because the patient had a fever.

C. Could you record temperature in a person without recording pulse in the human body?

A. Of course, one can do that.

C. It is most unusual, isn't it?

A. Well, I must not have noticed it at the time. I must have overlooked it.

C. Can you determine from the black book whether or not his pulse rate was taken? Does the black book contain that information?

A. No.

Q. Now, on the reverse side of Graph B25 we see pencil notations.  
Is that your handwriting?

A. No.

Q. Is that legible so you could read it to us?

A. Yes.

Q. Will you read it very slowly so the interpreters can follow?  
I imagine there may be some medical terms that may confuse.

A. "On the 2nd of September some pains in the area of the stomach.  
Otherwise, subjectively no complaints. Temperature up to 38 degrees  
centigrade. Bronchitis above the bases of the lung.

"3rd of September, left basal on both sides above the lung; a short-  
ening of the sounds at the lung itself." I cannot read the next word.

Q. Read whatever you can. If you find a word in the sentence that  
is not legible so that the sentence will not convey the meaning, then  
don't bother to read that sentence.

A. I can't decipher this word, "Bronchitis, individual rasping sounds  
which don't resuscitate, O.R. After administration of pyrazinon  
the fever sank immediately."

"4th of September, on both sides increased healing. Both points in  
shadows. When there is a coughing spell they almost do not lighten  
up.

"12th of September, subjectively the same complaints of stomach  
pains as before the beginning of the experiment."

Q. Will you stop for a moment there, doctor? You state there are  
stomach complaints as before the beginning of the experiment. Now, if  
a man complained of some ailment, why did you use him in your experi-  
ment if he complained of some stomach ailment? I would have thought  
that you would have eliminated people with complaints.

A. Yes, probably he had some gastric complaints which certainly  
were not extensive and this note says during the final examination



that due to the experiment there were no changes in the complaints.

"Condition of nourishment not satisfactory. Paleness of the skin. Turgor reduced. Musculature still excessively excitable. Heart O.B. , not enlarged."

Q. Well, now, is there a term there that says "mono-phlebitis," spelled m o n o - p h l e b i t i s ?

A. Yes. I don't know what that's supposed to mean. Probably, it was supposed to mean thrombophlebitis.

Q. What does that mean?

Q: What does that mean?

A: That is an inflammation of the veins.

Q: Then it goes on to say "Nutritional state, non specific"; what do you mean by that?

A: It apparently means satisfactorily.

Q: Then it --

A: (Interposing) This patient when he was discharged, I believe, weighed 55 kilograms; thus, he had not yet regained his original weight.

Q: Then, the further statement in those notes says, "Palor of skin, Turgor decreased". Was this man pretty well dehydrated?

A: Turgor reduced, it says -- Turgor reduced; thus he had not yet been fed enough.

Q: Well, now on the 12th of September, does it state that the muscular -- is still very strongly over-excitability.

A: It does not say, "very strongly" but "strongly".

Q: Strongly over-excitability?

A: Yes. That is something that he retained from the experiments.

Q: Well, is that a condition which would require that the subject be given some attention, medical attention?

A: Yes.

Q: And you left Dachau on the 15th?

A: Yes, that is why I required that the experimental subjects still be kept under medical attention. It was my request that they should again be examined.

Q: Then you turned these subjects over to the tender mercy of the SS physicians in the camp hospital?

A: Yes, the care and in the camp hospital for the prisoners was not done by the SS physicians, but by the prisoner's physicians.

Q: I wish to trace up now also No. 36, your Honor. This case is now only 30 pages, but will be marked "A" and the other "B".

Dr. Baigbock, were there other charts made out on this subject or are these the only two charts?

A: The experimental subject is from the second experimental group. In the case of the second experimental group, as you have probably seen, all the charts start only on the 30th of August.

Q: Well, now, this man's name is clearly legible, isn't it; that is, Boyler Reinhard?

A: Yes.

Q: 21 years of age, and his number was, 91149. Now, these experiments were initiated. He took 500 cc's of sea water every day for a total of six days; is that correct? — five days?

A: Actually only four days.

Q: Do you think that this subject was faithful in the experiments in as much as the intake on the 1st, 2nd, 3rd, and 4th of September is indicated on the chart A-36, the urinary output exceeds to a great proportion of sea water intake. Apparently this subject was faithful in drinking the sea water, is he not?

A: Yes.

Q: Did this man give you any trouble in as much as his temperature is about normal a considerable part of the time?

A: Yes. I also regarded that as toxic salt fever. He was 21 years old, and young, perhaps lively — but, now I saw that he had had a Anglian before. He had already lost his temperature when the experiment was started. And during the drinking, he again got a rise in temperature and, therefore —

Q: (Interposing) Well, it seems rather strange to me that on the 30th day of September this man had a temperature above normal; yet you used him in the experiment?

A: Yes, because on the next day his temperature went down. It was very difficult infirmation of his character, and it had disappeared; and therefore, at the beginning of the experiment he did not have any temperature.

Q: Well, isn't it rather dangerous to use a man who, perhaps, just recovered or is on the road to recovery from an illness as indicated by the temperature curve in an experiment?

A: Well, that depends upon what illness he had. If someone has a little inflammation of the throat which has already disappeared, that really is not a serious illness.

Q: I note that on the dates from 1 September to 10 September that this man's pulse rate rose continually, stayed about normal for an extensive period of time, and that in some instances when the pulse rate rose above normal the fever curve was below normal. Now, doesn't that indicate a rather dangerous condition?

A: Well, the subnormal temperature which is recorded here is 36.5, 36.2, 36.3; if that is a subnormal temperature, then all of humanity has subnormal temperatures.

Q: Do you know what happened to this patient?

A: He remained there until the end.

Q: Did you see him after the 12th of September?

A: Well, I saw him until the 15th.

Q: It was in the last day that the temperature and pulse curves are recorded, that the temperature and pulse curves cross one another?

A: Every human being in the course of a day has slight variations of his body temperature. And the falling of the temperature curve in this case occurred to the alarming extent of 36 degrees, and that is the most normal temperature you can imagine. That is, these are absolutely normal values which are recorded here for the last days, and the patient after he had lost 5 kilograms during the course of the experiment also gained about 5 kilograms; that is, when he was discharged he weighed somewhat more than he weighed at the beginning of the experiment. At the beginning of the experiment he weighed 60.3 kilograms and on the 12th, 61.5 kilograms.

Q: Doctor, obviously some one here has made a drastic error in that throughout these reports we notice that in ink weight has been placed on



the charts; that is, on all these charts. That is indicated on chart C-14, that is the weight on the 12th of September was 59 kilograms, on chart C-14, and I have called the attention of the Tribunal throughout to these pencil marks, in some cases it is made with a blue pencil and in some cases in ink. Now, here we see that this patient on the 12th of September, his weight is recorded as 61.5 kilograms, and somebody at a later date put 60.5 kilograms for the 12th of September. Now, can you maintain that these weights were put in all these other charts, in ink, and in this chart in blue pencil, some of the other charts also in blue pencil, were put in at Dachau or here, they also put in here at Nuremberg, in as much as the ink is rather fresh and does not look to be three years of age?

A: I can tell you with certainty that this was not done in Nuremberg. And if you look at the figures which are written in such a characteristic manner are done in the handwriting of the French medical student. If you will compare them with the other figures you can see that it is the same handwriting. I believe, however, that in the case of the second experimental group the third weight, one or two days later, perhaps even only on the last day, was taken, and that was not recorded quite correctly. If I may ask you to show me other fever curves from the experimental group No. 2, from 2 to 44, I can probably clarify that quite easily.

Q: We will cover two or three of those, Doctor, before we finish. How do you account for the discrepancy here: Now, the fact -- on this chart, which is NO. B-36, under the date of 12 September, we see the man has two different weights --

A: (Interposing) I have just tried to explain that to you. This one group from 1 to 32, was weighed on one day, and the medical student apparently recorded it in ink; while the second experimental group, in my opinion, was weighed later; and, that is what he had done incorrectly, it was not that he wrote these weights later but he wrote it down there. I believe that it was done from the entire second experimental group, from 32 to 44.

Q: In view of the constant rise in temperature in the patient, A-36, and

chart A-56 and B-36, indicating that his temperature remained above normal during the entire time that he was subject to the drinking of sea water, and that you had to interrupt it after four days, and had to give the man some injections of Steriofundin and so forth. Are you certain that the subject was not one of the men whom the witness Vicheng saw being taken to the morgue?

Court I

A. This experimental subject on the 12th September still gained 2 kilograms in weight above the body weight at the beginning of the experiment. That is how the subject is recorded here. I don't know why a person who gains weight so well should die and anyhow from a throat inflammation he doesn't die.

Q. It isn't certain on these charts that the man weighed 61.5 kilos on the 12th September or whether he weighed 60.5 kilos. It is apparent from the chart, and the chart speaks for itself, that you don't know what he did weigh, isn't that so?

A. I am telling you the weights which are recorded here on the lower line are the daily weights that were taken. These figures that were recorded up here - that is the final weight. That is the last weight that was taken. I would like to say for sure that the medical student recorded it on a wrong day because we had agreed that the final weight will be recorded up here.

Q. Did he do the same for all those charts in the second series? Record the final weights on the wrong day?

A. Yes, that is what I suppose. That is the final weight, the last weight, that was taken. The same medical student recorded on all the charts in the same handwriting and apparently he recorded the final weight on the 12th perhaps only later.

Q. I request, your Honor, to mark....

THE PRESIDENT: IF we are starting on a new chart the Tribunal will be in recess.

~~THE~~ MARSHAL: The Tribunal is again in session.

MR. HARDY: May it please the Tribunal, before proceeding with the examination of these records, I might add that I have only two more charts to go over with the defendants, and then perhaps three or four other questions which raise questions and my cross examination will be completed. I understand that Dr. Steinbauer has redirect examination of the defendant. In any event, the Prosecution has now Dr. Ivy here in Nuremberg. Dr. Ivy is the Vice President of the University of Illinois and performed tests with war-water, and is qualified to testify as an expert witness on the part of the Prosecution. Inasmuch as Dr. Ivy's connections and associations in the States require that he return on next Tuesday, the Prosecution respectfully requests that we be allowed to call Dr. Ivy out of order and have him take the stand this afternoon at 1:30, inasmuch as it is anticipated that his direct examination will take a considerable length of time, and in addition thereto it is anticipated that the defense counsel will have a considerable number of questions to ask in cross examination. So, if it meets with the approval of the Tribunal, I should like to call Dr. Ivy on direct examination at 1:30 this afternoon.



DR. STREIBAUER: Mr. President, for purely formal reasons, I should like to speak against the calling of an expert at this stage of the proceedings. As far as I know, Dr. Ivy was in Furnberg on the 20th of January, during the prosecutions case. He could have been examined as an expert at that time by the prosecution and, of course, I think it important considering certain occurrences that the matter be investigated by an objective third party. I will not object particularly because, in my opinion Dr. Ivy is only a cross examination witness for Schaefer for whom he has given an affidavit, but I ask permission that, instead of the written opinion of Professor Glatzel, which is in my document book, I be allowed to call this expert too as a witness so that he can comment on the material submitted by Professor Ivy. I was not able to give him this material before when he wrote his opinion because I did not have it in my possession, but I merely gave him some tables supplied to me by Professor Seiglboeck. The opinion of Glatzel I shall not submit for the time being, but shall ask for permission to call this expert as a witness here personally, and then the prosecution will also have an opportunity to examine him so that we will have two experts.

THE PRESIDENT: When will this witness be available, counsel?

DR. STREIBAUER: I believe, if he is asked to come by telegram- he is in Flensburg, in Northern Germany, near Kiel-I think he could be here in a day and a half.

THE PRESIDENT: Very well.

MR. HAWY: Your Honor, I might state in that connection that Professor Volhard has already appeared as an expert in the sea-water experiments for the defense counsel. I have no objection to further experts if he wishes to call them, however.

THE PRESIDENT: That is a matter which can be determined later. The Tribunal will afford the defendants reasonable opportunity to call witnesses who can be of assistance to the Tribunal in determining these

issues. While the Tribunal is of course reluctant to interrupt the examination of a witness, particularly one of the defendants, it appears to the Tribunal that Dr. Ivy, being here, should be heard and the request of the prosecution will be accordingly granted. Dr. Ivy may take the stand at 1:30 this afternoon.

At that time, the Tribunal will sit, as it did yesterday, from 1:30 to 5:00, and will observe the same hours tomorrow, and will sit certainly Saturday morning and possibly Saturday afternoon, in order to complete the testimony of this witness.

Counsel may proceed.

BY MR. BARDY:

Q. I wish to turn to Chart 93a. I respectfully request the Tribunal to mark it please.

Would you kindly read the subject's name from the top of Chart A-50, Professor Reigebach?

A. Johann Jablonski.

Q. What is his age here, please?

A. 49.

Q. Was a man 49 years of age a suitable subject to be used in an experiment?

A. I remember this man very well. I did not want to take him into the experiment, but then he wanted to remain at the station and I assigned him to the experiment with 500 cc of sea-water and the Lf probably means Lactoflavin, and he was in the experiment for three days altogether. He lost 2 kilograms.

Q. Well, a man 49 years of age didn't meet with the qualifications of the Luftwaffe, did he?

A. I have already said I did not want to take him in the first place, but he wanted to stay there and I accepted him into the experiment symbolically, as it were. It was an experiment which meant practically nothing. During these two days the man lost about 2

kilograms or, in three days, rather, and then he went back to his original weight.

Q. Did he receive 500 cc of sea-water?

A. Yes.

Q. For a period of three days?

A. Three days, yes.

Q. Was that sea-water treated with the Berka method or was that plain sea water?

A. That was Berka and Lactoflavin.

Q. Due to the age of this subject, why didn't you use him in the Schaefer experiment? That is, subject him to drinking sea-water treated by the Schaefer method? He would have been a more fit subject to have drunk the Schaefer water inasmuch as the Schaefer water was harmless.

A. I said it was not my intention to keep him in the experiment. He was taken out immediately. He would have probably lost much more weight with the Schaefer water than in this symbolic experiment, and besides he drank water in between. One can see from the end to the 3rd he dropped from 40.2 to 40 kilograms. That is, in effect, he actually did not participate in the experiment at all.

Q. Did this man become ill at all during the course of those experiments?

A. No.

Q. Did his condition become below normal?

A. I didn't understand.

Q. Was he below normal at any time during the experiment?

A. No, he was unchanged.

Q. Then, why was it necessary to give him a stereofundin injection, together with glucose and calcium?

A. I did that more or less regularly because that was the best method to break off. I treated this case very, very carefully. He was

in the experiment for three days, then he was put into the easiest group. Lactoflavin was an aid for him. Third, I broke off with all possible precautions. It was not because he needed it, but to help him.

Q. The easiest group of the experiments actually was those that were drinking the Schaefer water, isn't that true?

A. But they were in the experiment for 12 days. If I had let him go without eating for 12 days he certainly would have suffered more than he did in this three day experiment. Actually the experiment lasted only for one day. I did not want to take him in the beginning.

Q. Let us turn now to Case #40. Will the Tribunal kindly mark that, please? Here we have, on Chart A-40, an obvious erasure of the name of the subject. Do you see that, Doctor? I have been able to decipher that to read Ferdinand Daniel. Would that be correct?

A. Yes, that's right.

Q. How old was that young man?

A. 16, it says here.

Q. Did you have the consent of his parents?

A. I have already said, neither in this case nor in the case of any other patient, did I negotiate with the parents.

Q. What did he do to be branded asocial at the age of 16?

A. I have already testified about that. I said that I do not know the causes of this classification.

Q. Let us look at his charts more specifically, Doctor. What was his weight on the first day of the experiments. That is, the 31st day of August?

A. 52.5, the first day was 52.7.

Q. Was this young man subjected to 1,000 cc of sea-water?

A. Yes.

Q. What was his weight at the end of the experiment?

A. 47.9.



Q. What was his weight when you discharged him and left Dachau?

A. 50.7.

Q. Approximately four pounds underweight at that time?

A. Not quite.

Q. Now, the water balance--that is, the urinary output and the intakes which are indicated on those charts A-40 and B-40 show that he did not take the entire 1,000cc because the effect of what he did take--that is, perhaps he got normal water--that on the middle of the fifty day, nevertheless, it was necessary for you to support his heart action by an injection of sterofundin, glucose and calcium, wasn't it?

A. I broke off a large part of the experiments by intravenous injections of liquids and for the reasons which I have already given. Because suddenly the amount of blood in the circulation is increased, not as a treatment but as a support, a precautionary measure, I administered a circulation: and not because he needed it. One can see from his pulse rate very clearly that he was quite normal.

Q. How many aviators did the German Luftwaffe have aged 16? Pilots?

A. Pilots of that age? There were none, only assistants, so-called A & A gunners.

Q. You mean you had boys of 16 years of age in gun crews in airplanes?

A 15 to 17 year olds worked anti-aircraft guns in large numbers in 1944.

Q They were working anti-aircraft guns, were they flying in the planes?

A No.

Q It wouldn't have been very likely that a young boy of 16 years of age would be isolated on a raft at sea as far as the Luft-waffe was concerned?

A That was unlikely, yes, but in the case of a young person, of course, one would expect that he would suffer less from the medical point of view. A 16-year old would be able to hold out better than a 20 year old.

Q Is that why you permitted a boy of 16 to be subjected to these experiments, or didn't you concern yourself with his age?

A He was quite well developed. In my opinion 16 years is not a reason why a person can't drink sea water for a few days. You can see the experiment was stopped very suddenly on the 5th day. The entire loss of weight--he drank water in the meantime - for example, from the third to fourth day not only doesn't he lose anything but he gains weight. The total loss of weight in the experiment was 4 kilo.

Q Did you perform any surgery on this subject on 6th of September?

A No.

Q Was it necessary to give him a series of injections, or what are those penciled notations below the black line in the middle of page 40, under the date "6th Sept."?

A These words under the black line mean after the experiment was broken off, he was given water several times in doses of 200,-- one, two, three, four, that is he took a liter of water in doses of 200 cc. every hour or every two hours. That was not infusion, that was the amount he drank.

Q What was the room temperature of the room in which the

subjects were kept?

A I can't tell you at the moment. It was the beginning of September or of August, and probably not very hot.

Q Does the temperature at which a room is kept have any bearing on the outcome of the experiment?

A Of course the temperature has a certain influence as far as there is perspiration high temperature has an influence. When secretion stops, this influence is no longer important.

Q Did you attempt to keep this room at a temperature simulating temperatures that may be found at sea?

A In my opinion temperature at sea varies considerably. It depends on whether one is at the equator or near Greenland.

Q Could you repeat that again. I don't believe I understood you.

A I said temperature at sea varies considerably. It makes a big difference whether one is in distress at sea on the equator or whether one is near Greenland.

Q To simulate temperature would be necessary only for a very specific case. Here we just took the temperatures that happened to be.

Q Did you consider the temperature of a room had no bearing on the results or effects of the experimentation in sea water research?

A Of course the temperature has a certain influence, but it cannot be done in practice any other way than to carry out the experiments in a room.

Q It is pretty warm in August and September in the area of Dachau, is it not?

A The end of August or beginning of September it was not so warm anywhere. It was the beginning of fall.

Q Well, the climate in Dachau is similar to the climate here in Darmstadt, isn't it?

A I presume so. I don't have any exact information on the

subject.

Q Did you make any effort to install fans or to put in cooling apparatus in the barracks or the experimental station wherein the experiments on these 44 subjects were performed?

A There was ventilation constantly. All the windows were open and besides the temperature was not very high at the time of the experiments. It is possible when the people arrived, which was the beginning of August, it might have been warm for awhile, but when the experiments proper started the temperature was quite bearable, no special heat.

Q We have seen in most of these charts that you had a 7-day or 8-day, or perhaps a 6-day observation period of each subject prior to the commencement of the experiment, and during that observation period the experimental subjects received additional rations. In addition to that what physical routine did the experimental subjects go through?

A The subjects were not given any further treatment. They were given this just this diet; we made urine tests and sometimes blood tests; they could move freely, go walking in the courtyard; they had complete freedom of movement within our area.

Q Well, now, on the weight charts we have been considering here for the last day or two, you show the weights of the experimental subjects prior to the 7-day observation period, wherein they received additional rations. What can you tell us as to the weights of those subjects as compared to the weight, or the normal weight of a person of their particular height and stature, were they of average weight, underweight or overweight?

A For the most part they were within the normal deviations from the average. I will read that: One was one meter 69, 63.5 kilo. That is quite normal. The next was 169, 54 kilo. The next was 160, with 56 kilos. The next 168 with 52 kilos. The next was 167, with 61 kilos. On the whole perhaps there were a few who were a little below



average, but only a very few, a very few exceptions.

Q How would their weights or sizes compare to that of a Luftwaffe aviator, were they of the normal German aviator type?

A I believe that in the year 1944 those weights were quite the average weights in Germany.

Q Now, these men averaged about 60 kilos, that is striking an average, isn't that so, or about 120 pounds?

A Yes. But you must consider that these are rather short persons; I have just given you the height. They are about 160. Some of them are even under 160, one 157, 159, one 162, one 160. Some of them were taller, but the average was quite noticeably shorter. It makes a difference whether a person is 159 cent. tall or 180 in regard to the normal weight.

Q Could a person underweight endure a sea water experiment better than a person of normal weight?

A Most of them had normal weight or even increased under the special diet. At least their weight was in such proportion to their height that they could endure the experiment.

Q For instance, could an overweight like myself endure a sea water experiment as well as a person of normal weight?

A I do not consider it impossible that it would be worse for him. Someone who is much overweight has the water in his body much more firmly and suffers more from a lack of water than a thinner person, that is a fact.

MR. HARDY: I have no further question to put to Dr. Beigslboeck.

THE PRESIDENT: The Tribunal will be in recess 5 minutes until the Tribunal is re-arranged.

MR. HARDY: Does Dr. Steinbauer have any questions about the charts that he wants to ask while the Tribunal is here?

THE PRESIDENT: I should have asked that. I will ask counsel for defendant Beigelboeck if he has any redirect examination of

12 Jun-4-13-9-5-1210y (Int. Von Schon)  
Court No. I.

the defendant on these charts we have just been looking at.

DR. STEINBAUER: Yes.

THE PRESIDENT: Then we will proceed with that matter here.

Redirect Examination.

DR. STEINBAUER: How many liver punctures can you see in this chart?

THE WITNESS: It will take me quite a while to find them. I believe, however, I can remember even though I only have a vague recollection; there were eight.

MR. HARDY: I suggest that when he names the case where there was a liver puncture, he will state the case number.

THE PRESIDENT: Will the witness observe that when a liver puncture is named, he will state the case number.

THE WITNESS: Numbers 12, 13, 20, 24, 29, 30, 31, 32, and 38; that is all.

BY DR. STEINBAUER:

Q. The Prosecutor showed you a number of charts, I should like to ask you now to look at the charts which he did now show you; the first was No. 2, so let us discuss No. 1. Tell us briefly how it was and how long this person was in the experiment and especially if he drank water. I consider this last point especially important.

A. I believe No. 2 has already been discussed.

Q. Yes.

A. Yes, No. 2. I think for certain that he drank water once between the 25th and 26th.

Q. And the next one, No. 5?

A. No. 5 certainly drank a larger amount of water between the 26th and 27th. It is quite certain in this case. In 24 hours he went from 57.2 to 57 kilograms, a loss of only 200 grams. That is impossible.

Q. And then 6?

A. I believe that he observed the conditions of the experiment the whole time, and it was interrupted on the fifth day.

Q. No. 10, where there is no number on it?

A. No. 10 is a Schaefer case and there is no question of drinking water against the rules. The next one which is not marked is No. 12. On the 4th day of the experiment, from the fourth to the fifth lost 100 grams, so he drank at least one half liter or three-quarter liter of water. From the 28th to 29th he not only does not lose, but he gains 600 grams. I must assume on that day he drank at least a liter of water. That is a case where I would be certain that he drank on and one half to two liters of water, and what I figured out theoretically would correspond to that.

We have discussed No. 13, we have discussed No. 14. Of course, in the cases which we have discussed here some drank water, without its having been mentioned expressly, and I shall put this in the statement for the Tribunal which I shall write down about this matter of weight.

No. 15 has not been discussed. On the 4th day of the experiment, weight was 55.9 kilograms and the next day 56 kilograms. That is also an increase in weight. He had 500 cc of sea-water for six days in the experiment and drank at least one liter of fresh water.

No. 16 is a typical case where the sea water drinking had the same effect. He got so much fresh water in between that he hardly had any loss at all, at least in the beginning. From the 25th to the 26th he loses only 400 grams. From the 26th to the 27th his weight remains the same. From the 27th to 28th he loses 200 grams. That is one of the cases who drank water constantly.

Case 19 on the second day weighed 48.7 kilograms, on the third day 48.2; on the fourth day 48.1, and on the fifth day 48.3, and then he starts to lose weight and was in the experiment for two more days. That is another case, he



he drank water daily. He was in the experiment a second time during which he drank water constantly again, his loss from the 2nd to 3rd was 500 grams; 3rd to 4th 200 grams, then the experiment was interrupted for the second time because he failed to carry out the experiment.

No. 20 from the 2nd to 3rd day he loses 400 grams, this is much too little. From the 4th to 5th day he loses 100 grams; after the 5th day the experiment is broken off. He was also in the experiment twice. The second time for five days he lost a total of four kilograms and from the 2nd to the 3rd day of the experiment shows an increase of 100 grams. He failed to conform to the conditions of the experiment for the second time too.

Case No. 24 from the 3rd to 4th day loses 200 grams, from the 4th to the 5th day he loses 300 grams, from the 5th to the 6th day he loses 300 grams and then for two more days about 1 kilogram per day and then the experiment is broken off. The experiment lasted for nine days, but the total loss of weight was six kilograms. That is a certain sign that he drank water constantly. These were the cases which deceived me where I did not know what the cause of the failure to lose weight was, because I could not know that. That is why the experiment was continued.

No. 26 was not discussed either. He had a regular loss of weight. The experiment is broken off on the 5th day.

Case 27 is a typical example. From the 3rd to the 4th day he loses 200 grams, from the 4th to the 5th day he loses 500 grams, from the 30th to 31st, 500 grams; another case that drank water.

Case 28, that shows such a slight average loss of weight that one can assume that the experiment was interfered with by drinking water, which he began on the second day and from

and from the 2nd to 3rd day the loss of weight was only 100 grams. At the beginning of the experiment, the losses are usually more pronounced; later the loss of weight is relatively less. This shows he drank small amounts of water every day.

Case 29 possibly drank little. From the 25th to 27th I think that he drank something. The experiment was broken off on the 7th day. In the second experiment, from the 3rd to 4th day he loses 200 grams and the experiment went on only to the fifth day.

I should like to say that in the second group, when I knew their devices from my experiences with the first group, I knew what to do and broke off the experiments. If I had wanted to continue the experiments, I would have done it in the second group too. This I did in the first group only because at first I did not realize the significance of the failure to lose weight.

Case 31. That is a case of a thousand cc, where one would expect relatively great losses of weight. From the third to the fourth day he loses only six hundred grams; from the fourth to the fifth day only three hundred grams; so that one can assume a water intake of one and a half liters, at least.

Case 32 probably cooperated rather well. He was taken out on the sixth day. A careful examination of these charts will show that when nothing was drunk the experiment was always short. Where a great deal was drunk, the condition was such that there was no reason to interfere with the experiment.

Case 33. From the third to the fourth day he loses two hundred grams; from the fourth to the fifth day again two hundred grams, and, nevertheless, it is stopped on the sixth day.

Case 34 is one of the Schaefer group.

Case 35 from the first to the second day loses only five hundred grams although the amount of urine alone has this weight, so that the loss of weight through hunger or through the reduced amount of food in this case and the loss of water through the lungs does not appear at all. He must have drunk something. From the third to the fourth day the weight remains the same. From the fourth to the fifth day he loses five hundred grams although the amount of urine is eight hundred cc greater than the intake of water. These three hundred cc more that he loses must be included in these five hundred so that this means that he drank something. In spite of all the amount that he has drunk, he was taken out of the experiment on the sixth day.

Q. Is that the one with the inflammation of the veins?

A. No, that case was not discussed. That was not an acute inflammation. Many of these gypsies had old skin infections as the picture will show, what medicine calls Vagrant's Skin, from insect bites or going barefoot, and this caused chronic thrombophlebitis. That is not a disease but a chronic change of the veins.

Case 38 has been discussed. That was the one who was taken out on the fourth day.

Case 37 probably from the third to the fourth day drank a little water, probably not very much. On the whole it was one of the better experiments. On the sixth day he was taken out of the experiment.

Case 36 — from the second to the third day the loss of weight of two hundred cc, although the kidneys alone eliminated three hundred cc. This indicates with certainty an intake of water. From the fourth to the fifth day the weight remains the same. Nevertheless, this case was taken out of the experiment on the sixth day.

Case 39 has already been discussed. That is the 49-year-old who always drank water and actually did not participate in any experiment, really.

Case 40, from the third to the fourth day, increases in weight by one hundred grams. He certainly drank something. On the fifth day he was taken out of the experiment. That was the 18-year-old who was in a very brief experiment.

Case 41 has a relatively slight loss of weight from day to day. His total loss of weight within a six-day experiment period amounts to three kilograms. He begins with forty-nine kilograms and ends the experiment with forty-six. That is one of the cases who was rather clever. He took small amounts regularly and that is hard to prove. It is impossible for a person who is in a similar experiment for six days, when he has less calories than he needs, to lose only three kilograms in this long time. This loss of weight is less than what many people in the Schaefer group had.

Case 42. From the third to the fourth day the weight did not change — or, rather, he loses a hundred grams although the amount of urine was two hundred grams more than the intake. One must assume here again that up to three-quarters of a liter of water was drunk and, although from the fourth to the fifth day he eliminates part of this amount of water and had four hundred cc more urine, the loss of weight



is only seven hundred grams. That is hardly possible. He certainly drank water twice. He was taken out of the experiment on the seventh day.

Case 43 from the third to the fourth day of the experiment gains <sup>grams;</sup> one hundred/ judging by the amount of urine alone he must have drunk five hundred cc of water at this time. Nevertheless, the experiment is interrupted on the sixth day.

And Case 44 is from the Schaefer group.

Q. Now, which groups drank water according to these tables?

A. Giving the subjects the benefit of the doubt, I have calculated that from the group of a thousand cc no one was more than three days without fresh water, not a single person. I figured that out subsequently. From the group which got five hundred cc of sea water about 20 to 25 percent showed good results. Those were all cases where the experiment was stopped in a short time, on the sixth day at the latest. Everybody that lasted longer was someone who drank water; and, to the best of my ability, and using methods which I think any doctor would approve of, I figured out the loss of body weights and I shall hand that statement in in writing later. There is not a single case who lost so much body weight that he was in any danger of damage to his health by loss from water.

Q. That chart can be checked by the curves - that is, an expert can compare them?

A. Yes. The total loss of weight is entered in this curve and that figure is taken from the chart.

DR. SCHUBAUER: Mr. President, I should like to show these weight charts to the expert, which are in Document Book 2 and is No. 35. This is a photostat. If I may submit them now so that they may be shown to Mr. Ivy and so that I may ask him questions about these charts, I will give it an exhibit number later. No, it will be Exhibit 23.

THE PRESIDENT: Counsel may present them to the witness in due time.

JUDGE SEHRING: As I understand your statement, doctor, you have

certain weight charts which you would like to have the expert who is going to be called by the prosecution see and study, prior to the time that he takes the stand so that when it comes time for your cross-examination you may propose to him hypothetical questions based upon these figures and then you will then save time because he has had them available for study. Is that correct?

DR. STEINBAUER: Yes.

THE PRESIDENT: Counsel, you can consult prosecution to see when they can be submitted to Dr. Ivy, the expert.

DR. HOCHVALD: I shall do my best to get it through to Dr. Ivy, but, inasmuch as he is going to take the stand at one-thirty, I do not think it will be possible for him to study these charts before this afternoon. Possibly, if defense counsel will submit them now, Dr. Ivy will be prepared to answer questions submitted by defense counsel tomorrow.

THE PRESIDENT: It may be submitted to the expert, Dr. Ivy, and he will consider them when possible.

DR. STEINBAUER: It is missing in your document book, Your Honors.

JUDGE SEHRING: What number did you give that?

DR. STEINBAUER: 23. This document consists of two parts, a photostat chart and a typewritten chart. The typewritten chart I have taken from the cross-examination by Mr. Hardy. It contains the experiments which were repeated.

Those are cases 11, 13, 17, 18, 19, 20, 29, and 31. I repeat, 11, 13, 17, 18, 19, 20, 29, 31.

THE PRESIDENT: I understand that those numbers refer to the experimental subjects; is that correct?

DR. STEINBAUER: Yes, the subjects, according to these charts which we have discussed today.

DR. HOCHWALD: I just note that this typewritten sheet is only in German. Possibly Dr. Steinbauer has some list for the sake of the Expert Witness which he could hand over.

DR. STEINBAUER: We can see from this big chart there are only a few figures -- a weight chart; there are none in English.

DR. HOCHWALD: Only the typewritten chart has an explanation to the numbers, and is given in German. I only want to know if you possess a translation.

DR. STEINBAUER: Because of the lack of time, it was not possible. It has not been translated as yet.

JUDGE SEBRING: I would suggest that if the translators have a copy of the German, and as I examined, they have written in pencil the English translation of the German text on that sheet.

DR. HOCHWALD: I will try to get the translations.

THE PRESIDENT: Does the Council have any further questions?

DR. STEINBAUER: One very brief question.

BY DR. STEINBAUER:

Q. You testified about giving drinking water orally or intravenously, and you used various signs for that; one sign in the Chart is "RP". You said that was Rhotonic table salt. It was thought that that meant brain punctures, but I want you to state this "RP" is always at the end and has something to do with the interruption of the experiments.

Would you please with the aid of the chart show me very briefly where this "HP" is, that it is at the end of the experiment?

A. Yes, the "HP" also means that the experiment was interrupted. There was no puncture of the brain, in any cases, and I never in my life performed a puncture of the brain. It was a Hypotonic solution that was introduced. It is Oraler Parenterial; Oral means through the mouth, Parenterial means the introduction through the veins.

DR. STEINBAUER: I have no questions about the chart, but I should like to ask questions in the direct examination.

THE PRESIDENT: Well, it is almost time for the recess. The redirect examination will wait until the close of Dr. Ivy's testimony.

The Tribunal will now be in recess until 1:30 o'clock.

(Whereupon the Tribunal recessed until 1330 hours,  
12 June 1947.)



AFTERNOON SESSION

(The hearing reconvened at 1330 hours, 12 June 1947).

THE MARSHAL: Persons in the court room will please find their seats.

The Tribunal is again in session.

MR. HARDY: May it please the Tribunal, at this time the Prosecution desires to call Dr. Andrew C. Ivy to the witness stand.

THE PRESIDENT: Has the witness sheet been made for Dr. Ivy? It can be made as soon as possible.

MR. HARVEY: I will have it completed and filed at a later date, you Honor.

THE PRESIDENT: The Defendant Beiglböck will resume his place in the dock his testimony being interrupted due to an emergency call for another witness.

The Marshal will summon the witness Dr. Ivy to the stand.

Dr. Andrew C. Ivy, a witness, took the stand testified as follows:

THE PRESIDENT: The witness will raise his right hand and be sworn. Repeat after me:

I swear that the evidence I shall give shall be the truth, the whole truth, and nothing but the truth, so help me God.

(The witness repeated the oath.)

THE PRESIDENT: The witness will be seated.

DIRECT EXAMINATION

BY MR. HARDY:

Q Witness, what is your full name?

A Andrew Conway Ivy.

Q And where were you born?

A I was born in Farmington, Missouri, February 25, 1893.

Q Will you at this time briefly outline for the Tribunal your educational background, specifying the degrees you hold, and other particulars thereof.

A I received my grammar school education in several states - Missouri, Tennessee, Georgia. I received my college education in Missouri. I received the Master of Science degree and the Doctor of Physiology degree from the University of Chicago, Doctor of Medicine degree from Rush Medical College in affiliation with the University of Chicago. I have been granted the honorary Doctor of Science degree.

Q What has been your experience in the educational field, doctor?

A I taught physiology in the University of Chicago for four years, School of Medicine for four years at Northwestern University of Chicago for 20 years and now I am Vice President of the University of Illinois in charge of the College of Medicine, Dentistry, Pharmacy, and Nursing, and at the same time distinguished professor of physiology in the graduate school of the University of Illinois.

Q Do you maintain membership in various medical societies? If so, would you kindly elicit for the Tribunal just what societies you are a member in?

A Member of American Council of Physicians, American Medical Association. I have been chairman of the Section of Physiology and Pathology of the American Medical Association. Member of American Physiological Society of which I have been president and member of the American Gastro-Enterological Assn. of which I have been president, a member of the Society of Experimental Biology of which I have been past chairman, member of numerous other specialty societies and have been president for example of the Institute of Medicine Society of Internal Medicine of Chicago.

Q Will you outline for the Tribunal briefly what research experience you have had?

A My research as pertained principally to subjects in physiological and clinical investigation. Most of my work has been in the field of the alimentary tract, more recently in the field of aviation medicine. I have published some 900 articles in the various fields of research in medicine. During the War I was scientific director of the Naval Medical

Research Institute which covered research in all fields of human biology.

Q Have you been a member of the Committee on Clinical Investigation of the National Research Council?

A I have been a member of several committees of the National Research Council of the United States. I was a member of the Committee on Clinical Investigation since 1939, a member of the Committee on Decompression Sickness, a member of the Committee on Fatigue and Nutrition as related to industrial workers. I am a member of the Committee on Aviation Medicine, also of the National Research Council.

Q Were you also a consultant to the plans of the Quartermaster General of the United States?

A Yes. Consultant of the Surgeon General of the United States Army in the Division of Nutrition, consultant to the Board of Medicine and Surgery of the United States Navy.

Q And in addition to your duties as consultant to the Bureau of Medicine and Surgery of the United States Navy you were scientific director of the Naval Medical Research Institute?

A Yes. I served in that capacity for 9 months during the later part of 1942 and most of 1943. My function was to organize the staff of the institute and start its production in research.

Q Doctor, I will interrupt you for a moment. In as much as this interrogation is in the English language, after I ask a question if you will, kindly hesitate for a moment before answering so that the interpreter can properly interpret the answers and questions into the German language.

And, more recently, Doctor, have you served in the capacity as an expert to the Secretary of War, selected by the American Medical Association?

A Yes, I have been serving in that capacity, selected at the request of the Secretary of War by the Board of Trustees of the American Medical Association.



Q First of all, in this examination, doctor, I desire to ask you some questions relative to research in the field of aviation medicine. First, what are your research qualifications relative to explosive decompression or the situation to which persons flying in a pressure cabin aircraft would be exposed when flying at 40 to 60 thousand feet if the cabin were ruptured by gun fire?

A As a member of the Committee on Aviation Medicine and the Committee on Decompression Sickness of the National Research Council I recently published two articles on problems pertaining to decompression sickness. One appeared in the Journal of Aviation Medicine early last fall. Another in the Journal of the American Medical Association, I believe either in December or January.

Q What are your research qualifications relative to decompression sickness or pressure drop sickness?

A I have just indicated that. I have made a special study of the cause and symptoms of chokes or coughing which occur under certain conditions at high altitude. I made a special study of the cause of bends or pains in the region of the joints on exposure to high altitude. I have made a special study of free fall through the air. In 1940 and 1941 we had a professional parachute jumper bail out or jump out of the plane at an altitude of 32,500 feet and fall without opening the parachute to a level of around 2000 feet where he opened his parachute. We were interested in the effect of free fall on heart rate and respiration and other physiological functions. This jumper had attached to him 100 pounds of physiological apparatus. We had electrodes connected to his chest so that the heart beat could be broadcast out over the air down to the ground to be recorded on a wax disc. We had a device, a recording barograph, so a curve of the rate of fall through the air could be made. We had a neurograph or an apparatus for making a record of the rate of amplitude of respiration and other devices for making studies of the physiological responses to free fall from high altitude.



Q. Have you done any research work relative to rescue from high altitudes?

A. This particular problem on free fall pertained to the problem of rescue from high altitudes because it was our belief that perhaps it was most advisable for aviators when they had to bail out from their plane at altitudes particularly above 35,000 feet, to take a free fall.

Q. Well then those were studies on periods of useful consciousness when exposed without oxygen at different altitudes?

A. Well, we made studies on periods of free consciousness at various altitudes in order to find out how long one would be able to write or to think effectively and efficiently when exposed without supplemental oxygen at high altitudes. To be specific, if an aviator were exposed without a supplementary oxygen supply to an altitude of 30,000 feet where there is not enough oxygen to supply the brain for a very long period of time, how long would it be before he would lose consciousness, or how long would it be before it would be unable for him to write? Or if he were exposed to 40,000 feet without supplemental oxygen, how long would he be able to write?

Q. How did the United States Army Air Corps equip its high altitude flying personnel for escape at high altitudes?

A. They were equipped with an oxygen mask which was attached by rubber tube to a bail-out bottle of oxygen. In it was a quantity of oxygen was compressed into the bail-out bottle which was in a pocket on the pants leg. The supply of oxygen was adequate to keep the flyer adequately supplied with oxygen until he reached a level of 15,000 feet, where a supplemental oxygen supply was no longer required.

Q. Did the flying personnel also wear an electrically

heated suit?

A. Yes, the suit was electrically heated until the time they left the plane. It was not electrically heated, however, after they left the plane. But the warmth of course would be retained for some time after leaving the plane.

Q. With this equipment could the flying personnel of the United States Army Air Corps abandon a plane at heights up to 40,000 feet?

A. That is correct.

Q. Could they abandon a plane at any higher altitudes with this equipment?

A. They could abandon the plane at a higher altitude, but they might lose consciousness because at altitudes above 40,000 feet in order to adequately oxygenate the blood it is necessary to supply 100% oxygen under pressure.

Q. What is the chief danger in bailing out at altitudes of 40,000 feet? I imagine the cold would be one danger, and then the unconsciousness feature. Would those be the two dangers that they would encounter?

A. If you did not take a free fall or open your parachute within a few seconds after leaping out, you would be subject to the hazard of freezing on exposed part, particularly, and to lack of oxygen.

Q. Now in the development of this equipment used by the United States Army Air Corps for flying personnel who escaped from high altitudes was it necessary to use prisoners as experimental subjects to develop that equipment?

A. No. As a matter of fact, it was unnecessary to use human subjects except to test the equipment after it had been made. It was possible on the basis of theoretical considerations to determine the amount of oxygen that had to be put in the bail-out bottle in order to preserve con-

consciousness or to maintain an adequate oxygenation of the blood from a certain high altitude to a lower altitude where a supplementary oxygen supply would be unnecessary.

Q. Dr. Ivy, are you familiar with the evidence which has been presented before the Tribunal in connection with the high altitude experiments conducted at the Dachau concentration camp?

A. I am.

Q. Have you had the opportunity to study the report written by Ruff, Remberg, and Rascher, which is Document No. 402 found in Document Book No 2?

A. I am.

Q. Do you have Document Book 2 before you, Doctor?

A. Yes.

Q. Would you kindly turn to Page 88 of the English Document Book, and you will note therein a report of an experiment. Can you tell us whether or not it was necessary to perform such a hazardous experiment as set forth in this document?

A. I do not believe that it was necessary to do this experiment in order to determine the equipment to supply aviators who have to bail out of an airplane at high altitude.

Q. Do you think it was necessary to subject these human beings to such a prolonged period of unconsciousness due to oxygen lack to find out whether or not it would be best to simply bail out oxygen equipment and to take a free fall part of the way from 40,000 feet if the oxygen equipment were not available?

A. No, I believe that the information which was obtained by these experiments on human beings could be obtained from animals, as is indicated by the results of Lutz and Wendt referred to in the document. The differences between the



responses of the human subjects and the animals as reported by Lutz and Wendt were not sufficient, in my opinion, to warrant the performance of these quite hazardous experiments.

Q. Prof. Ivy, do you consider the experiments which are described in this document, that is the group Romberg and Rascher report, Document No. 402, to have been particularly dangerous?

A. I consider them to be dangerous because of the prolonged period of unconsciousness to which the subjects were exposed. For example, they were unconscious for periods of around twenty minutes, and they were disoriented for periods of around thirty to ninety minutes. That is a dangerous period of oxygen lack to which to expose the brain. I agree that since these workers followed the electrocardiogram demonstrates that the heart of these subjects was not momentarily affected or significantly affected by this prolonged exposure to oxygen lack. But these experiments do not show, or the results do not show that the cells of the brain were not injured. One of the higher faculties of the brain is learning, and we know that the learning process is rather sensitive to oxygen lack, and the only way to check against the possibility of damage of the learning mechanism by prolonged exposure to oxygen would have been to have determined the I.Q. of these subjects or the ability of these subjects to learn before and after the subjects were exposed to such a prolonged period of oxygen lack.

MR. HARDY: I wish to interrupt you for a moment, Dr. Ivy. May it please the Tribunal, it has been called to my attention that defense counsel for Ruff and Romberg are not present, and inasmuch as this testimony will affect their cases, I at this time will ask Dr. Ivy to set aside his testimony concerning the high altitude experiments, and I



Court 1  
June 12-4-44-5-HD-Feldt-Wartenburg.

proceed to the sea water experiments. I am advised that Dr. Sauter and the other defense attorney may be here this afternoon. If not, we can take it up tomorrow in their presence.

THE PRESIDENT: Will you see to it that counsel for Ruff and Rosenberg are notified of the fact that this testimony is to be given?

MR. HARDY: I will, Your Honor.

THE PRESIDENT: What phase of the witness' examination are you about to take up?

MR. HARDY: Sea water experiments. I note that counsel for Becker-Freysong are present. Is it possible that Dr. Polkmann is here in the court house? I wonder if Dr. Steinbauer can answer that?

DR. STEINBAUER: Dr. Polkmann is on a trip.

MR. HARDY: Then in view of that, Your Honor, I will ask to proceed with the sea water experiments and interrogate Dr. Ivy concerning them. I don't know what we can do about the absence of Dr. Polkmann, inasmuch as he is out of the city.

THE PRESIDENT: Counsel may proceed.

BY MR. KARRY:

Q Dr. Ivy, what has been your experience relative to the larger problem of survival on a raft at sea or the potability of sea water?

A In 1939, as a member of the Committee on Clinical Investigation for the National Research Council, I was asked to make an investigation of the best procedure for packing drinking water in cans for use as emergency drinking water aboard rafts. As a result of that study, canned water was produced and was supplied to the rubber rafts that are part of the equipment of airplanes. I was also asked to make a study of survival rations for rubber life rafts, and the ration that is now being used by the U. S. Army and Navy for that purpose is a part of that development. I might say, that when I was at the Naval Medical Research Institute as scientific director, I served as a collaborator in the project which led to the desalination or the removal of salt from sea water in order to render it potable. In that connection, I might say that the chemical method which we developed is, from a chemical technological standpoint, very much like that which was developed by Dr. Konrad Schaefer. We carried it further, however, and developed it, insofar as its application to conditions aboard a raft is concerned, so that it was very efficient. We used plastic bags which could be packed in a very small space and which would be used for carrying out the chemical reaction.

Q Did you ever make a study of the toxicity of sea water?

A The toxicity of sea water, yes. It's one of the first experiments that we performed at the Naval Medical Research Institute. There were three subjects. I served as one subject, the first day taking only 100 calories in the form of candy. I consumed 600 cc of sea water which had a salinity of approximately 3.4% and a sodium chloride or table salt content of 3%. The second day I consumed 800 cc of the sea water. The third day, 1000 cc, or in three days, I consumed a total of 2,400 cc of sea water. At the end of that time I was rather markedly dehydrated and

rather intoxicated to the point of developing hallucinations. A second subject, who served with me voluntarily, was a hospital corpsman. He did not follow directions. The first day he became so thirsty that he consumed a total of 1,000 cc of sea water. The following morning he was so thirsty that, within the course of three hours, he consumed an additional 1,000 cc, which caused him to develop vomiting and diarrhea. We stopped the continuation of the experiment on this subject. The other subject was a doctor who did not consume the sea water in quantities to which I consumed the sea water. He consumed, as I recall now, only 800 cc of sea water in three days.

Q And what effect did that have on him?

A That quantity of sea water had no particular effect on him. No deleterious effect.

Q Then what studies did you make during the course of this experimental series?

A We made rather elaborate studies of changes in the composition of the blood and changes in the output of urine. We were primarily interested in knowing, purposes of confirmation of literature, the effect of drinking sea water on ourselves, and also in confirming data already in the literature regarding the capacity of the human kidney to concentrate salt in the urine.

Q To what extent can the human kidney concentrate salt or chloride—expressed as sodium chloride?

A In this and subsequent studies we performed on this subject we found that the human kidney will concentrate sodium chloride or table salt to the extent of from 1.8 to 2%. Now, occasionally in the literature you will find a figure as high as 2.3%. I know of only one such figure that has been reported in the literature. However, and I have always been skeptical about the accuracy of that figure, and when I read in the Record the report that certain subjects of Dr. Boilboeck concentrated salt in the urine to the extent of greater than 2.3, or even as high as 3, I felt that that was due to inaccuracy in the use of chemical methods.

Q What is the concentration of salt in sea water, Doctor?

A That varies depending upon the source of the sea water. As I indicated some time ago, the salinity of the sea water we used which was picked up off the coast of Norfolk, Virginia and had a salinity of around 3.4%. Sometimes, water taken from the ocean has a much lower salinity than that. The reason for that generally is that the sea water is removed too near the mouth of a river which would dilute the salt in sea water. The average salinity of sea water from the oceans throughout the world, according to my recollection, is somewhere between 3.4 and 3.5%. That means that it contains around 2.9 to 3.2% table salt.

Q When one drinks sea water containing approximately 3.3% salt, the kidney, in order to excrete the excessive salt, must use body water. Is that correct?

A That is correct. If you drink sea water that contains 3% of table salt and if the kidney cannot concentrate salt to a greater extent than 1.8% then, in excreting the remainder of the salt from the body, body water, which otherwise would not be excreted, would have to be used in the excretion of the extra salt. This would bring about unusual, or greater than otherwise would occur, excretion of body water.

Q Well, if a person were given sea water to drink, would they dehydrate faster than if they were given no water to drink?

A Yes, that is correct up to a certain point. The body, under conditions of lack of intake of fresh water, can excrete a small quantity of table salt which might come from a small amount of sea water. For example, if I were to start fasting, after two, three or four days the output of urine - my output of urine would be approximately 400 cc. That would contain less than a gram of salt or it would contain only a fraction of 1% of salt, so it would be possible for me to take in maybe a gram or a gram and a half of salt in the form of sea water so as to increase the concentration of salt in my 400 cc of urine up to a concentration of 1.8%.



Q Well, Doctor, would you say that if persons were given 500 or 1,000 cc of sea water daily to drink that they might die sooner than if a person was given no water?

A There is no question about that.

Q Well, would you refer to the official transcript of this trial on page 8483 of the English transcript? Do you have that with you, Doctor?

INTERPRETER: What date is that, please, Mr. Hardy?

MR. HARDY: This is the afternoon session of 3 June 1947, the testimony of Dr. Volhard. Page 8483 of the transcript, in the middle of the page, beginning with the words: "However, the experiments didn't give a definite supportive evidence of that." Does the interpreter have that sentence?

INTERPRETER: Yes.

BY MR. HARDY:

Q Now, Doctor, here, in the testimony of Professor Dr. Volhard, it states as follows:

"However, the experiments didn't give a definite supportive evidence of that, but they did have an important result. Not only the obvious result, namely that the Schaefer water was superior to anything else, but also the observation that the kidneys can, nevertheless, concentrate water so astonishingly well, up to the concentration of sea water, that, in the future, one could give the advice that in cases of sea distress, instead of being completely thirsty one could rather drink 500 cc of sea water and, in that manner, increase the salt content of the blood but would not have to be afraid of dehydration quite so quickly."

Now, is it true that the human kidney can concentrate salt to the extent that salt is present in sea water?

A No, it is not true. The statement is not true and the reasoning is not true and it would be a very dangerous statement to make for people at sea on a raft. It would lead to their death in the course of around 6 to 14 days. I mean, sooner than from 6 to 14 days, depending upon the

12 June 47-4-15-5-Marrow (Int. Bartenburg)  
Court No. 1

environmental conditions. They would die sooner, drinking 500 cc of sea water a day, than if they drank no water.

Q. Have you had an opportunity, Dr. Ivy, to read extensively this testimony of Professor Vollhard?

A. Yes, I have read all of it.

Q. I wish to point out to you on page 8484 of the record that Professor Vollhard testified that drinking sea water treated with Berkatit would have serious consequences after six days and lead to death if continued. Now, is that statement on the part of Professor Vollhard inconsistent with the statement on page 8483 which you have just analyzed?

A. Yes, I believe that it is inconsistent and I agree with the statement you just read on page 8484.

Q. Then you agree that Berkatit is nothing more than sea water without the taste, is that right?

A. That is correct.

Q. In studying these experiments of Professor Beiglboeck and the charts and records could you tell us whether or not these experiments were necessary?

A. They were not necessary in order to determine whether or not Schaefer water could be taken without harming the body. That would be determined by a chemical test. We have set up public health standards where the chemical composition of potable water, Schaefer water, produced would be analyzed to see if it came up to these chemical requirements, and a number of experiments have been done to demonstrate that sea water in quantities larger than 100 to 200 cc's, as I have already indicated, have a deleterious action on the body when sea water is the only source of water, and it is well known that there is no fruit juice or similar organic material which can be added to sea water which will neutralize the effects of salt on the body. All that one had to do would be to add some Berkatit to this sea water and study it chemically, as Dr. Konrad Schaefer did, to see if the salt in any way were modified, and there was no reason really to do that, because a person who knew anything about

bio-chemistry would know that you could not modify table salt in any way so as to modify its effect on the body.

Q. Was it necessary to test the Berka method upon human beings in order to determine its efficacy?

A. Not for practical reasons, no.

Q. Could you have determined whether or not the Berka method was of any value chemically?

A. In the same way Dr. Konrad Schaefer did it.

Q. How long would that take, Doctor?

A. If you had the apparatus set up, the solutions and the necessary arrangements made, you could determine that in the course of half an hour. In order to study water requirements and salt and water metabolism, the experiments as were performed by Dr. Reiglboeck could be justified, but they were only necessary to perform in order to determine whether or not Berka water was a potable water, and whether or not Schaefer water was a water which would be of benefit to human physiology.

Q. Dr. Ivy, do you have before you Document Book V? That is the document book of the prosecution which contains the documents concerning the sea water experiments.

A. Yes.

Q. Would you kindly turn to Document NO 177, which is Prosecution Exhibit 123? Have you had the opportunity to study that document?

A. Yes.

Q. Now, this document is the minutes of a conference which was called to devise an experiment to test whether the Berka method of treating sea water could be tolerated, and it is stated in this document that the chief of the Medical Services of the Luftwaffe is convinced that if the Berka method is used damage to health is to be expected not later than six days, and will lead to death, according to Dr. Schaefer, not later than twelve days. Now, on the basis of your knowledge of the toxicity of sea water, is that statement essentially correct?

A. Yes.



Q. Why do you say that, Doctor?

A. Upon the basis of my knowledge of the affect of drinking sea water on a body metabolism, body chemistry.

Q. Would the application of sea water treated by the Berka method in quantities of 500 cc. cause death in twelve days, or would the application of sea water treated by the Berka method in quantities of 1,000 cc. cause death in the same time or a shorter period?

A. It would cause death in a shorter period, that is the larger amount, because it would dehydrate the body more rapidly.

Q. What do you estimate would be the length of time a person could drink sea water treated with the Berka method before death would be reached after they had been subjected to 500 cc. of sea water, or Berka water?

A. That would depend upon the environmental conditions and upon the strength or robustness of the individual who was drinking the sea water or Berka water. For example, if one drinks no water under desert conditions, death occurs in three or four days. The desert is hot and dry and this increases the rate at which the body loses water. If a person is on a raft at sea where the humidity of the atmosphere is high and the temperature we shall say is around 70, then death would occur in around 8 to 14 days. There is no report on the latter, because the survival of a person on a raft at sea without water is for 17 days, but there is reason to believe the authenticity of that report, but one can calculate that under ideal conditions that a robust person could live 14 days without any water at all.

BY JUDGE SABBING:

Q. Dr. Ivy, excuse me please, you said that in going over that report concerning the person who lived 17 days that there was reason to believe the authenticity of the report?

A. Reason not to believe, reason to disbelieve the authenticity of that report. For example, it isn't certain but there is reason to believe this person had a small amount of water with him when he got into the life

raft. Now, if one were to take 500 cc. of Berka water or sea water in a desert where the temperature is high and the humidity is low, they would not survive the otherwise three or four days which they would if they drank whole water, and there are I might say deserts on the sea, so far as rain is concerned. There are areas in the ocean which have no more rain than the Sahara desert, for example. If one were to take 500 cc. sea water or Berka water under ideal conditions, they would not survive the 8 to 14 days, but would die sooner. If they were to take 1,000 cc. of sea water or Berka water, they would die sooner, for reasons which I have just tried to explain, than if they took 500 cc. Berka or sea water.

Q. Now, Doctor, this Document NO-177, on page 17 of the English Document Book B-7, we find under the Section 2 a heading "Duration of Experiments 12 days", which reads as follows: "Since in the opinion of the Chief of the Medical Service (Chef des Sanit tsweasens) permanent injuries to health, that is, the death of the experimental subjects has to be expected, as experimental subjects such persons should be used as well as will be put at the disposal by the Reichsfuehrer SS." Now, in order to determine whether the Berka treated sea water is less dehydrating to the body than untreated sea water is it necessary to be so atrocious as to conduct the experiments to a point where lives or health is endangered?

A. No, three or four days would be all that is necessary.

Q. So it was absolutely unnecessary to endanger life or to cause permanent damage to organs to determine whether the treatment of sea water with Berkatit made it better for the body than untreated sea water?

A. It was unnecessary unless one desires to determine survival time of human beings on 500 cc. or 1,000 cc. of Berka water or sea water.

Q: Was that perhaps the explanation why a ten day experimental plan was talked about here?

A: It is the only logical deduction that I can make from that statement.

Q: Then, in other words, from reading that Document NO. 177 and from your knowledge of sub-war research problems, you are certain that this committee's minutes or this report deliberately plans or expects death to occur?

A: I do not know what they had in mind when they wrote the statement of the report, but that is the only interpretation which I am able to give.

Q: In this report did you run across the word "volunteers" at any time?

A: No.

Q: Are you familiar at all, now after your study, or are you familiar enough to testify regarding the experiments performed by Professor Baiglböck on prisoners at Dachau?

A: Yes.

Q: Could you tell us the design of the sub-war experiments conducted on the experimental subjects by Dr. Baiglböck at Dachau? I will pass up to you, Doctor, for reference if need be the records of the experimental subjects in the two books and if you wish to refer to them at any time, you may do so.

Dr. Ivy, would you just what records have you seen which outline the results of the experiments conducted at Dachau?

A: When I was in Nurnberg in January and I met with Dr. Leo Alexander, Dr. Baiglböck and his attorney, at that time I saw records in two books, which contained data which came from these experiments and which I discussed with Dr. Baiglböck. Since returning to Nurnberg, as of this time, I have seen these documents, which you just brought up; one data book and another data book which is only part of the data books, which I saw in January and then these charts, giving the individual data or records on the

44 subjects of the experiments.

Q: Have you seen any further data on these experiments?

A: I have seen one summarizing table, which was submitted to the Tribunal as a document. The number of that ....

Q: Was that one written by Professor Baigboeck since his incarceration here in Murnberg you mean?

A: That is the one I had in mind.

Q: Have you seen no other documents concerning the results and records of the experiments at Dachau?

A: Not that I recall at the present.

Q: No that one note-book, which you say that there is only a part thereof in the folder at the present time; was that a note-book which had a black cover on it when you saw it in January?

A: I could not say what color the cover was. According to my recollection, it was a cover, it was a stiff cover and different from the note-book which has been submitted in evidence with a cover. As I recall, it was a stiff cardboard cover.

Q: Were you able to ascertain or can you remember which was removed from the book?

A: I specifically recall that there is missing a summarizing table with the list of names of the various subjects. I recall this specifically because in discussing the data that was summarizing this table from day to day as the experiment progressed, I could tell from the data that the subjects or at least some subjects, had gotten some water, some fresh water and at times urine was lost, at times part of the day's specimen were lost and apparently things of that sort.

I remember that specifically because after I looked over the data, the summarizing data, I said to Dr. Baigboeck, "Would you publish this data as a scientific report in a medical journal?" He said, "No". That was the answer that I expected to get from a least conscientious scientist. Then I said, "Why did you, a well trained clinical investigator, along with



adequately trained chemists for assistants, consent to perform experiments requiring a great deal of effort on such unreliable and irresponsible subjects, particularly in an experiment of this sort where the cooperation and interest of the subjects in the outcome of the experiments is essential for the success of the experiments?" He told us that he did that because he was ordered to. He said that he had written to Professor Eppinger and had suggested that these experiments be performed on himself and his co-men, or some convalescent soldiers about to be returned to the front, but he had been told that these experiments were to be performed on prisoners at Dachau.

He also told us that he had written a letter to his relatives or home folks telling them he did not like to do this work. So, I remember specifically for that reason that particular table and I do not find it in these documents.

Q: Is there anything else, which you think is missing from these documents or do you think that these documents before you now show the complete records of the experiments at Dachau or is it customary in scientific research of this sort to keep more accurate records?

A: Well, I think these records are in as much detail as those which one generally makes chlorite readings and phosphoric figures, from which the final results have been calculated or sometimes kept, but as a general rule are thrown away. There is one major defect in the records of the individual patients in that is it would seem to me that when one is making a study of the effect of the deprivation of food or water on the human body for a period of five, four to eight days or when one is given seawater in doses of 1,000 cc per day, there should be a longer follow-up period to determine whether or not there were delayed effects of these procedures on the patients upon subject. So, I believe that it would have been highly desirable for Dr. Schepfer to have had a longer period of after observation. He did not have a very long period, six to ten days, in the group of study on seawater. I believe his experiments would have been much better if

h. And at least a week after study on his subjects in the other groups.

Q: Then you are familiar, Dr. Ivy, with the design of his experiments; could you outline for the Tribunal how design he followed, that is the various groups, etc.?

A: The general plan of the experiments I think is adequate for a study of water and salt metabolism in the human body. He had a group who received no food or water, I believe there were six subjects in this group. He had another group which received Schafer water, which essentially is fresh water and they received 1,000 to 1,500 cc a day. That is adequate to keep them in water balance unless the weather happens to be warm, because 500 to 1,000 cc of water is all that is required to keep the body in water balance.

Q: It would have been better in all of these experiments if he had taken into consideration the loss of water by the lungs and by the skin, because even a dry skin that from 300 to 1,000 cc of water digested per day is enough to keep an ordinary adult in water balance. That is enough to make up for the loss of water loss through swelling of air in the lungs through sensible or insensible perspiration and by way of the urine. I believe there were six subjects in the second group. He had a third group, which received 500 cc of sea water and a fourth group which received 500 cc of BARK water and then a group which received 1,000 cc of BARK water; five subjects in that group. I remember five subjects, which received 1,000 cc of sea water.

Q. In general would you say from your observation from the records that the various tests were performed adequately?

A. Yes, I should say so.

Q. By and large --

A. There is one exception. That is, I think some of his chloride determinations were inadequate, too high, so as to give him a concentration of table salt in the urine of greater than 2% approximating 3%.

Q. Have you been able to ascertain from the study of the records what was the purpose of this experimental plan?

A. As I said, it was adequate to make a good study with reliable subjects on water and salt metabolism -- that is, under various conditions or under the conditions that scientists working in this field would like to have.

Q. By and large, the experimental plan was technically to determine whether or not Berke water and Schaefer water differed from sea water, was it not?

A. Well, this a laboratory setup wasn't necessary in order to determine whether or not Berke water was different from sea water. I thought I had already made that point. You could determine that in the chemical laboratory and if you had to do some experiment on human beings you could determine the answer to that question in three or four days.

Q. Were the results of these experiments of any scientific value? Dr. Seiglboeck states he would not publish them in a medical journal. Have you anything further to add to that?

A. I don't believe they were of scientific value.

Q. Is it probable, Professor Ivy, that one might expect acute, chronic bodily injury to occur as a result of these experiments?

A. If dehydration of the body is carried too far, acute injury and permanent injury may occur, even in the robust, healthy individual.

If individuals have some chronic disease such as tuberculosis, a period of fasting and marked dehydration may cause an exacerbation or a lightning up of the chronic disease or process.

Q. The only group actually in those experiments in which acute symptoms would not be anticipated is the group which were receiving the Schaefer water. Is that correct?

A. That is correct.

Q. Would a period of fasting for one week weaken a person?

A. Yes, obviously.

Q. Would they be liable to faint?

A. On standing, yes. Some people would be likely to faint. I fasted two weeks. I tolerate fasting quite well. I have had other subjects, however, when fasting only three days, faint on suddenly arising from a cot.

Q. Would an undernourished or underweight person be more inclined to weaken quicker than a normal person?

A. Yes.

Q. Could injury have occurred in the group in those experiments which received no water and no food?

A. That is possible.

Q. Now, some of these people went on the hunger and thirst from, oh, anywhere from five to eight days. Did you notice that in the records, doctor?

A. Yes, that is correct.

Q. Could you turn to subject No. 3 in the records there? Is there any indication in subject No. 3's records to the effect that he may have suffered as a result of this hunger and thirst period?

A. Well, I notice on studying the record that on several occasions the patient or subject was too weak to stand, apparently, to have his blood pressure taken.

Q. Doctor, on those records before you I believe on Case No. 3



you will find on the top of each graph a number "A3", on the second page "B3", and on the third page "C3". Do you find those numbers?

A. That is correct.

Q. Would you kindly refer to the entries on these charts by the chart number and the date where you find those entries you are referring to?

A. On the chart labelled "B3" I note that the subject was too weak to have his blood pressure taken on August 27th and 28th, and in the after-period, on August 31st and September 1st and September 2nd I notice on chart labelled "B3" that the patient was given an injection of Coronine which is a heart stimulant. That was on August 26, the day before the cessation of the supposed period of deprivation of food and water. On August 29th he was given some strychnine. On Chart "C3" I find that on August 30th and 31st he was given some Strychnine. Strychnine is given as a general stimulant and also as a cardiac stimulant. One wonders why those stimulating drugs were given and why the patient was too weak to stand or too weak to have his blood pressure taken unless he was an ill patient or markedly debilitated by the experimental procedure.

Q. Do you have any further comments to make concerning Case No. 3, doctor?

A. No.

Q. What is the range of survival, Dr. Ivy, of strong men without food and water?

A. As I have indicated, that depends upon the environmental conditions; under certain conditions around three or four days, under ideal environmental conditions eight to fourteen days.

Q. How do you happen to specifically know that so well? Did you ever publish any works in that regard?

A. Yes, I have reviewed the entire literature on that subject. I have published these reviews of the literature in two places, one in a couple of articles on desalination of sea water, the minimal water

and food requirements in the U.S. Naval Medical Bulletin, and another in the proceedings in the Chicago Institute of Medicine.

Q. Dr. Ivy, when you state that it is possible for a person to reach at sea a maximum of fourteen or fifteen days before death, how do you account for the fact that in America in 1943 we can recall having seen articles and headlines about a seaman in the United States Navy named "Icgy" who survived on a raft on the Atlantic Ocean 83 or 84 days?

A. No, that seaman was Icai, I c o i, I recall. I interrogated him when he returned to Washington. I was interested particularly in the details of his adventure. I found that the longest that he had been deprived of sea water was seven days. Now, I can recall that figure for this reason.

Q. Pardon me, Doctor; you mean deprived of sea water or deprived of natural water?

A. I mean deprived of water. Did I say "sea water"?

Q. Yes, doctor.

A. I mean he was deprived of water for seven days. When he boarded the raft he had some water with him. That was used up and then he collected rain water which he would collect and hold. I remember the seven days because at that time I was in the process of making rain charts for the oceans and he had passed through an area of ocean in the South Atlantic where the longest period of freedom from rain was eight days and, when he was in that particular region of the ocean, he had been without water for seven days. That was the longest period that he was without water to drink.

Q. That death may have occurred in fasting and thirsting subjects is not probable, is it?

A. Will you ask that question again?

Q. Is it probable that death might occur in fasting and thirsting subjects used in experiments like this?

A. Yes, after a period of days, 6 or 3 to 14, depending upon the environmental conditions and the original health of the subject.

Q. Then it is possible that death might occur?

A. Yes.

Q. Is it probable that drinking 500 cc of sea water daily from four to ten and a half days and taking no food for from two to six days will cause injury?

A. Well, it might cause acute injury and embarrassment such as fainting.

Q. In the drinking of sea water --

A. Or collapse.

Q. On page 12 of Document No. 177, in Document Book No. 5, Doctor, this is the report on the committee meeting held in Berlin. On page 12 of the document book, the last two sentences from the bottom, you see the following language:

"External symptoms are to be expected such as drainage, diarrhea, convulsions, hallucinations and, finally, death." Is that an accurate statement?

A. I have not found that.

Q. That is on page 12 of Document Book No. 5. That is Document NO. 177.

A. I have it now.

Q. That last sentence on that page 12.

A. I do not know what is meant by the word "drainage" but it is true that diarrhea, convulsions, hallucinations and, finally, death, may occur when one takes 500 to 1,000 cc of sea water every day. Diarrhea would not occur in the case of fasting and thirsting but hallucinations, finally death, muscular twitchings, perhaps convulsions, might occur in similar thirsting and fasting conditions.

MR. HARDY: This is a good breaking point for recess, your Honor.

THE PRESIDENT: The Tribunal will be in recess.

(A recess was taken)

THE MARSHAL: The Tribunal is again in session.

MR. HARDY: May it please the Tribunal, the interpreters have called to my attention that the word on page 12 of Document Book V, that is in Document HC-177 which is Prosecution Exhibit 133, in the last sentence from the bottom of the page the interpreters state that the German word which has been translated as "drainage" in English should be replaced by the word "dehydration". In as much as Dr. Ivy could not quite understand the meaning of "drainage" the interpreters checked the German and the German is better translated as "dehydration". In that connection, Dr. Ivy, dehydration, of course, is a symptom which would be found in experiments of this sort?

A. Yes, in all of the groups with the exception of the Schofer water group.

Q. Now, how many of the 14 subjects were supposed to have received 500 cc of sea water daily for six days or more according to your study of the individual charts?

A. You mean of the 44?

Q. Of the 44, pardon me.

A. You say how many received 500 cc of sea water?

Q. Yes, daily for six days or more.

A. 14.

Q. Dr. Ivy, could you refer for a moment to some of the charts wherein the person drank 500 cc of sea water and determine whether or not the experiments began on the 21st day of August or whether the experiments began on the 22nd day of August. You will note on any one of the charts that a mark has been inserted under the date 22 August which is an arrow - a red arrow - with a blue circle at the end thereof, indicating the date of the commencement of the experiment and in addition to that there is also a mark in red indicating the date of the commencement of the experiment on the 21st. Dr. Beiglböck suggests that he placed the arrow with a blue circle at the end thereof



under the date of 22 August at some later date when he was re-evaluating these charts. Now, can you straighten out for us, in your opinion, just when these experiments began, whether they actually began on the 22nd or whether they began on the 21st. Do you understand the import of my question, Doctor

A. Yes, I understand. If we refer to subject 12 who was given 500 cc of sea water presumably. On the chart marked 12 under the space of the chart indicated for August 21st there is a square arrow and on the next chart 12 under the space of August 22 there is a circle in blue from which there extends a straight arrow upward. The experiment apparently started on August 21st where the first arrow is indicated and the first results on urinary output are indicated on August 22. That is a natural way to make a report and a study of this sort because if I start an experiment we shall say on May first we generally make a weighing before breakfast on May first and then on May 2nd we will make a weighing breakfast. That is the first day or the first 24 hours of the experiment and as a general rule we end the urine collections at a similar time and then the urinary output is indicated as the urine output for the first day of the experiment. So, on the basis of these records I should say that in the case of subject no. 12 the experiment actually started on the 21st and the urinary output is recorded for the 22nd. That however may differ from what actually occurred.

Q. Dr. Ivy, Prof. Baigbweck points out that the reason why he put the arrow under the date of the 22nd was because of the fact that no discrepancy in weight appears from the date of 21 to the date of the 22nd, and hence he deduces that if no loss of weight occurred, that the experiment could not have begun on the 21st. Now is that a logical deduction on his part?

A. No. The first weight loss would occur on the first day of the actual experimental period. As I explained, you got your first weight loss by taking the weight before breakfast on the first day of the experiment and from that subtracting the weight obtained before breakfast on the second day.

Q. I see. If you started the experiment on the 21st day of August as indicated by the square arrow on these charts, would you necessarily record an intake of water on the 21st, or would the first recording of an intake of water be made on the 22nd?

A. Well, on the basis of the way I explained the keeping of the records, you would record it on the 22nd. But just exactly what Dr. Baigbweck did I cannot state, and we can't state from his records, because the water intake and the urinary output for the days preceding the alleged starting of the experiment are not indicated. The water intake and the urine output is only indicated in these charts for the experimental period.

Q. How many of the 44 subjects were sick at the end of the sea water period, according to your interpretation of the charts, regardless of how much of the 500 cc. they actually consumed?

A. Well, if we take subject 3, which was on or supposed to be on thirsting and fasting, according to the medication the subject received, that patient was sick or disabled. If we refer to Subject 14, which was supposed to be receiving 500 cc. of sea water for, according to our calculations, 8  $\frac{1}{2}$  days with 4  $\frac{1}{2}$  days of hunger, there was an acute fever and temperature of 39 degrees Centigrade on the day of the conclusion of the experimental period. That patient was

sick. If we refer to patient or subject 36, receiving allegedly or supposedly 500 cc of sea water, that patient was given strophanthin therapeutically, indicating that the patient was ill; otherwise why give such medication? If we refer to patient 37, we find that that patient had a fever during the course of the experimental period.

If you refer to patient 39, who likewise was supposedly receiving 500 cc of sea water daily, stereosudin was given therapeutically. That would indicate that the patient was ill and needed intravenous or parenteral medication.

Q. Do you believe, Doctor --

A. Referring --

Q. Go ahead, continue.

A. Referring to Subject 21, that patient was supposed to have received 500 cc of Borne water each day, was given chloramine and was too weak to stand for blood pressure reading on two days. Subject 23 in the same group was apparently very sick and emaciated, and according to the acute weight gains, 8 to 10 pounds after the experimental period, the patient was sick. Subject 25 in the same group had a fever and was given morphine. There was x-ray evidence of lung pathology, which causes me to believe that that patient was ill. Patient 28 was too weak to have the blood pressure taken. The same was true of patient 29. That completes the list of the patients who were ill during the experiment.

Q. Do you believe, Dr. Ivy, that any of these 44 subjects were permanently injured or died later?

A. One cannot answer that question yes or no. It is possible, but I should say not highly probably. There are three patients whose after records I should be particularly interested in knowing about. That is subjects No. 3, 23, and 25.

Q. Have you carefully observed case No. 30? Dr. Baigbuck informed us that the shorthand notes which are contained on the back of sheet 23-C are shorthand notes concerning the condition of the patient

12 June-A-JP-21-3-Feldt (Int. Von Sohen)  
Court I

in case No. 30. Are you able to determine from these stenographic notes and study of case No. 23 and Case 30 whether or not the notes apply to Case 30 or to Case 23? I will pass up to you an English copy of the transcription of the stenographic notes on the back of case No. 23.



A. From my study of the charts for subject 23 and subject 30, since the stenographic pencil record on the back of the Chart C-23 is not dated, I can only answer your question by stating that the stenographic record on the back of Chart C-23 is just as likely to be true of subject 23 as of subject 30. There is nothing in the clinical record or data which would indicate that the implications of the symptoms and signs described in the stenographic record is more likely attributable to subject 23 than subject 30.

Q. While you have the copy of the stenographic notes before you, Doctor Ivy, could you analyze for the Tribunal just what state of health the subject referred to in the stenographic notes, contained on the back of Graph C-23, was in?

A. This patient was in a coma. He was quite sick. Does that take care of your question?

Q. Would there be a great deal of difference in your analysis if, in the sentence which reads "He asks for water only when he awakes from his somnulent condition," that the word "somnulent" was replaced by the word "semi-conscious"?

A. There's a definite difference in the medical implications of somnulence and semi-comatose.

Q. If you please those two words that I suggest in this paragraph, would you be under the impression that the patient was sicker than as indicated in the paragraph as now written on the mimeographed sheet you have before you?

A. By those changes you improve the clinical condition of the patient.

Q. Improve the clinical condition of the patient?

A. With the changes made.

Q. You mean, with the changes that will now appear on the mimeographed sheet I have given you, not by the words I

have suggested to you to be replaced, to make the word "no" and the word "semi-conscious"?

A. The idea that I'm trying to convey is that after the changes have been made you get the idea that the patient was not as sick as is originally indicated before the changes were made.

Q. Perhaps I have created a difficulty. I have asked you to replace the word "little" with the word "no" and the word "somewhat" with the word "semi-conscious", but you mean now, that it is written on this mimeographed sheet and as the document now reads, after it has been changed, it would indicate that the patient is not as sick as it would indicate before the stenographic notes were altered?

A. That's correct. In other words, by making these changes in the stenographic record, the clinical condition of the subject was improved.

Q. Now, in the sentence in the second paragraph which reads: "The general condition gives no cause for alarm", if the stenographic symbol for "no" was placed later would that make a considerable difference in your analysis of the patient?

A. Obviously.

Q. In the sentence in the third paragraph which reads as follows: "Respiration somewhat flatter, moderately frequent" would there be a considerable difference if it was written as it appeared originally before or or sure, in that the word "is" was placed in the sentence instead of the word "somewhat"? In other words, the sentence would read: "Respiration is flatter", and then, later in the same sentence, after the word "flatter", in place of the word "moderately" we insert the word "hardly" so that the sentence as written originally would have read: "Respiration is

flatter, hardly frequent." Would that convey an entirely different meaning to you than the sentence as it reads now: "Respiration somewhat flatter, moderately Frequent."?

A. Yes, the changes made indicate that the clinical condition of the patient is better.

Q. In the sentence in the 8th paragraph which reads: "Heart beats very low, poorly audible", if the word poorly was replaced by the word "scarcely" would that tend to create a different meaning so that the sentence would read: "Heart beats very low, scarcely audible" rather than "poorly audible"?

A. I'm trying to make a difference between "poorly" and "scarcely".

Q. Would there be a difference?

A. So far as I am personally concerned, that would make no difference. Poorly and scarcely audible are almost the same thing.

Q. Doctor, are you familiar with the expression "Romberg plus plus" as indicated in the last paragraph?

A. I am, of course, familiar with the Romberg test or Romberg sign, but the use of pluses varies with different doctors, so just exactly what is meant by Romberg plus might mean something different for me from that it would mean to some one else.

Q. What is the purpose of a Romberg test, Doctor?

A. It is to determine one's ability to stand steadily without falling with their feet together and their eyes closed. A two plus would indicate that it would be difficult for this subject to stand without falling. That would be my interpretation.

Q. Could you explain to us what the remark in the last sentence in the last paragraph "bulbous reflex positive"

means?

A. Well, that is the patient would respond when the eye ball was pressed upon.

Q. What is the purpose of such a test as that, Doctor Ivy?

A. That is generally used to determine the extent of unconsciousness or the degree of coma.

Q. The second sentence from the bottom, in the last paragraph, which reads: "Tonus of the bulb of the eye bad", what does that indicate?

A. That again is a test used for the purpose of estimating the extent of unconsciousness or degree of disability of a person. If the tone of the eye ball is low, that indicates that the blood pressure is low or the state of the circulation is quite poor.

Q. Is that a bad prognostic sign, Doctor?

A. It is one among others that is bad.

Q. If such a condition exists in adults is it apparent to the attending physician that a serious condition is existent and that death may result?

A. Will you repeat that question?

Q. Is it apparent in the general condition of adults, in grown-ups, that death may be approaching if we find the tonus of the bulb of the eye is bad?

A. Yes, as you say "may be".

Q. Do you have any other analysis to make concerning any of the other notations on the back of this Chart #23 as set forth in the translation that you have before you?

A. No.

Q. Have I pointed out to you clearly the remarks which are indicative of illness on the part of the patient?

A. Yes, I think it is obvious that the patient was quite



sick, and as a matter of fact, I should say in a dangerous condition and requires immediately remedial therapy.

Q. Well, then, you would state that a follow-up of this patient would have been necessary?

A. Yes.

Q. Can you tell us from observing Charts #23 and Charts #30, inasmuch as it is not certain whether or not these notes apply to case #23 or Case #30, just how long the follow-up was made on these two patients?

Q: In case 23 temperature and pulse record was made for four days after the termination of the experimental period, and in the case of Subject 30, 5 days.

Q: Do you think that was a sufficient length of time to follow up these cases?

A: I do not think so. As I have already indicated, I believe that records should have been kept as in the case of Schaffer water experiments for approximately 2 weeks, and in a case where patients or subjects have become as ill as this subject apparently was, I should think should be followed for at least 3 weeks after the termination of the experimental period.

Q: Could you say it was possible that this subject could have died if not properly taken care of?

A: On the basis of the symptoms and signs recorded I should answer that question, yes.

Q: Now, in the summation concerning these records, Doctor, let us consider the group of 5 subjects that were supposed to drink 500 cc's Berke water or water treated with Berkefil; now, of these 5 subjects receiving 500 cc's Berke water daily do you state that three became definitely sick and one other subject, No. 24, doubtfully sick, according to the record?

A: That is correct.

Q: And Subject 21 had to be given morphine, heart stimulant, as he was too weak to stand on two occasions?

A: Yes, he was too weak to move, his blood pressure was low.

Q: And Subject 25 had a fever at the end of the Berke water period and was too weak to stand up on two occasions, and he had to have morphine, and X-ray of the chest disclosed pathology, perhaps pneumonia?

A: Perhaps pneumonia, yes. There was a shadow on chest film of the bronchus.

Q: Doctor, you said this morning that condition was probable, would you like to determine from the charts whether this is pneumonia, is that too difficult?

A: No, I would have to see the actual film.

Q: Now, you state that you should have certainly followed up the subjects 21, 23, and 30, and number 25?

A: Yes, and number 3.

Q: And number 3. Now, the subjects that supposedly received 1,000 cc. of Berkebit treated serum daily from about 7 to 10 days, how many of those became sick again, Doctor?

A: Two.

Q: That was subjects —

A: 23 and 29.

Q: Now, I note that Subject 27 is supposed to have gone 10 days, Subject 2, supposed to have gone 9-1/2 days, and Subject 21, 8 1/2 days on 1,000 cc Berkebit serum, is that possible?

A: That that is not possible. According to the urinal output in relation to the 1,000 cc of Berkebit Patient 27, for example, supposedly did not take all the 1,000 cc of Berkebit serum.

Q: Well, now, how did the five subjects supposed to have taken 1,000 cc of Berkebit serum daily from 4-8 to 5 days later?

A: Subject 32 and Subject 40, among the five who were supposed to have taken 1,000 cc of Berkebit serum, were quite ill. Subject 32 was too weak on two occasions to have the blood pressure taken, and Subject 40 was given no serum at all.

Q: Now, Doctor, it is obvious that all of these patients did not drink the serum, but that some of them did, isn't that true?

A: Yes, that is true.

Q: So it is apparent that these experiments turned out to be very scientifically?

A: Scientifically speaking, yes.

Q: Now, out of the total of 44 subjects is it true 12 are too weak to stand up or walk or move, and 10 have a fever and 10 required virus inoculation or were hemorrhagic, those subjects being 4, 3, 14, 21, 23,

25, 26, 29, 32, 36, 37, 39 and 40?

A: Yes, according to the data recorded on the charts those patients either required some sort of X-ray or unusual therapy, or were too weak to have their blood pressure taken, or had a fever or had difficulty with the X-ray, for example?

Q: Dr. Ivy, several witnesses have testified here that one or three of the 44 subjects died during the course of these experiments or later, now, in your opinion after studying these records which of these 12 subjects who exhibited observed signs of abnormality during the period of observation recorded on the charts were sick enough to cause concern regarding whether they might have died?

A: Well, subject 25, the subject to whom the stenographic notes on the 6th of June, 1947 apply, and subject 3. Those are the subjects in this group which concern me in relation to your question. Now, that statement is simply an opinion based on the data that are available.

Q: On page 8762 of the official transcript of this trial, Doctor, the testimony of the witness at Biogelbock, which will be found in the afternoon session of 9 June, 1947 —

A: That was the page, please?

Q: That is page 8762. A question put to Dr. Biogelbock reads as follows, and this is found in the second paragraph of the official transcript for 9 June, 1947, on page 8762 of the English. When the interpreters have the will they will do. I will wait for you.

THE INTERPRETER: We don't have the English text at all yet. We don't have the 9 June, but if you continue we can translate.

Q: (continued) The question: "The witness Bauer, who is a business man, in a civilian profession, says further that he saw symptoms of heart weakness; what do you say about that?" Dr. Biogelbock answered as follows: "The witness Bauer developed the electrocardiogram which I took. He developed the film. I suppose that on that opportunity he also examined them like an expert. This occurred in the case of the experimental subjects



was a slowing down of the pulse. This is called in German medical literature  
Schon Stellung. It is a protective position of the blood circulation. This  
is supposed to express that through the slowing up of the heart beat, as in  
the case of any case of deficiency, as in the case of hunger, a certain  
economic saving up, that is a quibbling down of the circulation develops.  
This theory, I believe, is the correct one, but not the one that Herr Bauer  
accepted. Now, Dr. Ivy, do you recall that several of the subjects were  
given curarine or strychnine at the end of the experimental period?

A: Yes.

Q: What are the drugs commonly used in treating patients, what are  
those drugs commonly used for in treating patients?

A: As a cardiac stimulant?

Q: Does not the use of these stimulants by Dr. Baigbouch on a few  
of these subjects confirm the reports of Herr Bauer?

A: Yes, I would say so, I am not the theorist, the opinion expressed  
by Bauer?

Q: Now, at this point I have no questions to put to Dr. Bauer  
concerning his later experiments, so if the Tribunal has any I will not  
proceed to the next portion of the examination.

BY JUDGE HENNING:

Q: Doctor, do you have before you Document NO 177, which has been  
introduced in Prosecution Exhibit 133, and appears in Prosecution Document  
book V, at pages 11 to 17, inclusive?

A: Yes, I have it.

Q: Will you please turn to page 13 in Document Book V?

A: Yes, I have it.

Q: Will you please turn to page 13 in Document Book V?

A: Yes.

Q: Now I direct your attention in particular to that paragraph which  
reads paragraph 2. Prior to that paragraph there is a heading;  
duration of experiments maximum 8 days. In addition to these experiments

12 June ~~4-72-23-5-M~~by (Von Schoon)  
Court 1

"further experiment should be conducted as follows: 2. Persons given  
sugar and as a diet also the emergency ration. Duration of  
experiment 12 days." Can you tell by an inspection and analysis of  
the sugar, 3 bars and the diet books which you now have before you whether  
there were any experiments set up to last a period of 12 days nourished with  
sugar and the emergency ration?

A. Except for the subjects in the group receiving Schaefer water, which is essentially fresh water, none of the experiments extended longer than  $10\frac{1}{2}$  days, according to my way of interpreting the extent of the experimental period. According to Dr. Baiglbosch's way of interpreting the extent of the experimental period, the longest period would be  $9\frac{1}{2}$  days.

Q. Will you please explain what is comprehended within the period of  $10\frac{1}{2}$  days as you estimate it and  $9\frac{1}{2}$  days, as the defendant Baiglbosch estimated; maybe perhaps I can make myself more explicit; in estimating that period of time are you taking into account the preliminary observation period of seven days?

A. No, when I used the expression experimental period, I meant the period of time that the subject was thirsted and fasted or the period of time the subject received Schaefer water or the period of time the subject received either Berka water or sea water. The period before the experimental period was referred to as the control period or pre-experimental period and and the period after the experimental period may be referred to as the post control period.

Q. Let us assume that your interpretation of the records are complete and that some of the experimental subjects participated in the experiments for a period of as long as  $10\frac{1}{2}$  days; can you say from examining the report whether that was an unbroken experimental period?

A. In every case, I should first say that I have studied the records with that idea or point in mind and in every case, according to the urine out-put, I should say that the experimental period was broken. That is, if you refer to the chart of patient No. 27, you will find that that patient was supposed to take 1,000 cc of Berka water for ten

days, the last six of which were hunger. If you look at his record of urine out-put, you find it was impossible for him to follow that strict routine.

Q. In regard to the experimental subject you have just been referring to, can you state from looking at the chart and records what his physical condition was at the time he broke into the experiment by gaining access to water or to fresh water as the case may be?

A. The record will show that I did not include subject No. 27 in my list of the subjects who appeared to be sick on the basis of the study of these records.

Q. The defendant has made the statement, if I understand his testimony correctly that he found of the entire group of experimental subject that twenty of them gained access to water during the course of the experiment and he listed them, if I understood his testimony correctly. Perhaps you have a pencil and pen there, do you, Doctor?

A. He listed them as the experimental subjects Nos. 2, 3, 14, 15, 16, 19, 20, 24, 27, 28, 29, 31, 33, 35, 37, 38, 40, 41, 42, and 43. Can you examine the charts or records of these experimental subjects, or any or either of them and give the Court your medical view as to the condition, physical or mental, that those subjects were in at the time they broke off the experiment; by that I mean at the time they discontinued the strict routine under which they were placed as experimental subjects?

A. First, I should like to give an answer to that question insofar as Subject No. 27 is concerned. I just referred to that subject as having been supposed to receive 1,000 cc of Berke water. According to my interpretation of his urinary output, that subject received sea-water to any significant extent only on the first four days of the ten-



day experimental period.

Q. Here is the thing, Doctor. Perhaps I may aid you in getting the information, if you can get it, that the Tribunal is interested in. Here is an experiment, which as you say, according to your interpretation of the charts, was conducted for a period of at least 10½ days with some of the subjects. I think that the Tribunal is interested in knowing.....

A. I think we should correct that figure to ten days.

Q. Ten days..... I think the Tribunal is interested in knowing what the condition of those subjects was when they broke off their experiments, because as I remember the Defendant Seiglboeck said that when he discovered that fact, he placed some of them again back on the routine as volunteers. As he puts it, if he found them and continued them in that status; we are interested in knowing whether or not at the time they broke off the experiment by gaining access to fresh water, they were in physical fit condition or, if they were not, whether during the interim that they gained access to fresh water they again became fit enough so that they could safely be put on a second routine of salt water, or hunger and thirst; do I make myself clear, Sir?

A. Yes, in the case of Subject No. 27, and we are talking about that subject, the chart indicates that the pulse was quite slow and unstable and that is the only indication on this chart.

Q. When?

A. This was on August 30th, which is the ninth day, and the patient was taken off of the experimental period the following day, so that would indicate that either because of the other evidence indicated that the patient was quite

dehydrated or because of the condition of the pulse, that Dr. Seiglboeck decided to break the experiment. On the other hand, he may have decided to break the experiment because the patient was not taking all the sea-water, I mean all the Berke water.

Q. I think the defendant made the explicit statement that in regard to some of the subjects, he came to the conclusion that they were gaining access to water and he confronted them with that fact and then threatened them with the fact that he was not going to give them the cigarettes he had promised them because they were not engaging in the experiment fairly and then they untreated him to be allowed to again embark upon the experiment, whereupon he started a new period. And I am interested, the Tribunal is interested in whether or not, at the time they started the new period, they were physically in condition that they should have been allowed to do so.

A. Subject No. 11 is supposed to have received 500 cc of sea-water; his experimental period was seven days and then he was taken off the experiment and then a few days later started on a second period for five days. If you will refer to the list of numbers that you gave me, you will not find Subject 11 there. He was supposedly on the 500 cc of sea water for two different periods.

Q. Well, in fairness to the defendant, I believe I should say, that is as I understood his testimony this morning, he called attention to these subjects by number who had not already been dealt with by the Prosecution. I believe in fairness to the defendant that ought to be stated.

Q. Now, perhaps that will take some time and perhaps you would like to go back over those records with our

question in mind and perhaps be in a position in the morning, after you have had an opportunity to analyse all of those sheets.....

A. I have already done that.

Q. I see.

A. I think maybe you wanted me to take them up one at a time on the basis of my study of these records of the group of subjects who were exposed to two experimental regimes without more than four or five days between. All of them were in good condition at the time the second period was carried out. Now they had not all gained as much weight, by that I mean they had not returned to their original body weight, all of them.

Court 1

A On the basis of their pulse, on the basis of their temperature and other data available, I couldn't say that they were debilitated to such an extent that they could not tolerate of renewal of the regime for the period on which they were placed.

Q May I ask you now this, Sir? In your opinion, under what circumstances should a volunteer for a sea water experiment such as we are considering here be allowed to drop out of an experiment before it's conclusion. I mean be allowed to drop out of his responsibility on his own request?

A That isn't an easy question to answer. In the experiments which I have performed involving the aggravation of sea water with and without dilution or in which I have restricted the water intake to determine minimal water requirements, I have permitted the volunteer subjects to withdraw from the experiment whenever they expressed the desire to do so, regardless on the fact that they agreed at the start to continue until they were released.

Q Then let me ask you, should the factor whether the experimental subjects feel that he is unable to continue with the experiment be a matter to be determined by him or should it be determined solely by the man conducting an experiment?

A I do not believe that it should be solely determined by the man conducting the experiment.

Q If it should appear from the evidence that the person conducting the experiment reserved for himself the decision as to whether or not the experimental subject should be allowed to drop out because of physical or mental distress or discomfort and did not allow the experimental subject to make that decision or choice for himself, would you consider that experimental subject, who desired to drop out of an experiment during its course but who was not allowed to do so by the man conducting the experiment, was thereafter a volunteer?

A I do not believe that he would be a volunteer and the reason



Court 1

why I have always permitted subjects to withdraw from the experiment when they expressed the desire was from one, a humanitarian standpoint; number two, from a pragmatic standpoint from which I mean that if I forced him to continue he would not be reliable and cooperative and I could not expect to obtain reliable data from him; so I permit them to drop out as soon as they express their desire -- the reason of humanitarian and pragmatic ethical philosophy.

Q Let us assume that at the outset and prior to the beginning of the experiment the person who is going to conduct the experiment advised the potential experimental subjects that he himself was going to reserve for himself the decision, the sole decision, whether an experimental subject would be allowed to drop out during the course of the experiment and let us assume that the experiment started and that, because of extreme physical or mental distress or discomfort, one of the experimental subjects expressed a desire to drop out and let us assume that the man conducting the experiment determined that they should not drop out because prior to the beginning of the experiment he had warned them that he would reserve that decision for himself, would you think that after that time that experimental subject would be in the sense of a volunteer?

A No, my answer is the same as before because when you coerce or cause a volunteer subject to continue as a subject you can expect cheating and unreliable cooperation and, hence, that challenges the scientific nature of the complete experimental design and at the same time you are exercising coercion.

THE PRESIDENT: There will be no further questions from the Tribunal.

BY MR. HARTY:

Q Professor Ivy, in connection with the sea water records, did you note thereon any indications that Professor Baiglbach had performed liver punctures on the experimental subjects?

A Yes.

Q Could you explain to us whether or not in these experiments,

Court 1

these liver punctures were necessary, whether if necessary they would be harmful, and whether or not a person suffers as a result of a liver puncture?

A A liver puncture is a diagnostic procedure which has been used considerably in the last five or six years. When the procedure is carried out by a skilled and experienced operator, the danger of the procedure is minimal, very small. In itself it cannot be said to be a dangerous diagnostic procedure.

Q Do these records indicate that Dr. Seiglboeck performed lumbar punctures on any of the experimental subjects?

A Well, when the first looked over the subjects we did not know exactly what the abbreviation "LP" meant. We thought that that might mean a lumbar puncture, or a liver puncture. We also were not certain regarding the meaning of the abbreviation "IP". "H" could stand for liver, "hepatic," or "I" could stand for the German word "hind-brain", but we thought that "IP" stood for cisternal puncture and "LP" for lumbar puncture. I don't understand that "IP" refers to liver puncture and "HP" to intravenous medication.

Q Would there be any purpose whatsoever in performing a lumbar puncture in these experiments?

A Well, I do not think so. From a scientific standpoint one could say that it would be worthwhile knowing whether or not the cerebro spinal fluid pressure was changed by dehydration, whether or not the concentration of cerebro spinal fluid was changed.

Q Would there be any purpose in the course of sea water experiments as performed at Dachau and performed by Professor Seiglboeck to perform a cisternal puncture?

A No more than the reasons I gave you for a lumbar puncture. The lumbar puncture is a much safer procedure than a cisternal puncture.

MR. HARDY: Your Honor, at this time I would like to proceed to the examination of Professor Ivy concerning the high altitude pressure. Dr. Sauter is now here in the courtroom and he informs me he can represent

Court 1

defense counsel for Woltz and defense counsel for Rosenberg as well as for himself for Ruff.

THE PRESIDENT: Very well, proceed.

BY MR. HARDY:

Q In order to bring Dr. Sauter up to the points that we reached this afternoon in connection with the high altitude research, Dr. Ivy, I am going to request that we go back over the questions concerning the report, Document NO 402, now if you will turn to page 88 of Document Book, No. 2 which is the data given concerning an experiment performed at Bachau, the protocol of which appears in Document NO 402, I wish to ask you the following question: Was it necessary to perform such a hazardous experiment as elicited here on page 88 in Document Book No. 2 in the report of Ruff, Rosenberg and Rascher.

A. In my opinion no.

Q. Do you consider on the whole the experiments set forth in Document HQ-402 to have been particularly dangerous?

A. Only those experiments involving slow descent or descent with the parachute opened from the higher altitude do I consider dangerous.

Q. That is those experiments which were concerned with slow descent from an altitude exceeding 15000 meters or 47200 feet?

A. Yes. All those in which the period of unconsciousness or oxygen lack were prolonged I indicated that that might cause injury of the cells of the brain in a permanent way which would be indicated by a test of the learning mechanism.

Q. Well, in a slow descent experiment of this sort how long would the brain and the heart be deprived of adequate oxygen?

A. As I indicated the experiments, the results of the experiments, show that the subjects were unconscious for fifteen or, I believe, up to thirty minutes because of lack of oxygen and they were disoriented for a period of from thirty up to ninety minutes.

Q. Well, now the extremeness of these conditions are recorded by the authors on page 97 of Document Book II. Therein they report that no lasting injury due to oxygen lack occurred. Is that statement uncritical?

A. I believe it is in so far as the brain or cerebrum is concerned. But I believe it is a correct statement so far as the heart is concerned.

Q. But in these experiments they did not study the learning mechanism of the brain, did they?

A. No.

Q. Would you explain to the Tribunal just what you mean by the study of the learning mechanism of the brain?

A. Well, in order to learn the cells of the cerebral cortex must be normal. The cells in our body which are most sensitive to lack



of oxygen are the cells of the cerebrum. Hence, in determining whether or not a period of oxygen lack had caused any injury to the body test should be applied to that bodily mechanism which is most susceptible or sensitive to oxygen lack. It is for that reason, I believe, these experiments were incomplete and it could not be stated categorically the body of these subjects resulted in damage from oxygen lack.

Q. A n experiment of this type, would you be reluctant to do such an experiment on yourself?

A. Yes, I should unless it were absolutely necessary to provide said information that could not be obtained by some other method.

Q. Do you mean by experimentation on animals, monkeys or other animals?

A. Yes, and even perhaps myself.

Q. Well, would the difference between the result on animals and the result obtained on men be striking?

A. In some instances Yes but not in this particular instance. I should say that the difference between the results obtained by Lutz and Wendt and the results on animals obtained by Ruff, Romberg, and Rascher on these human subjects was not enough to indicate that these experiments were necessary. And that is what I should anticipate on the best of my knowledge.

BY JUDGE SEBRING:

Q. Doctor, that was the question I was going to ask. Could that have been anticipated with your knowledge prior to the time you had it and the reports of Ruff, Romberg and Rascher.

A. Yes that is correct because we know the particular pressure of oxygen at these various altitudes and we know how long there will be an adequate amount of oxygen in the blood to maintain physiological function. And we know at what altitude there is sufficient amount of oxygen in the air to oxygenate the blood in order to bring about consciousness. With that knowledge one can determine the amount of oxygen that has to be put in a bail out bottle in order to preserve

consciousness from one high altitude to a lower safe altitude.

Q. Was that knowledge known, were those facts known generally in the medical world in the year 1942, doctor?

A. Yes, in 1942.

BY MR. HARDY:

Q. Professor Ivy, in your opinion is it possible for a physician, that is a senior physician or a medical scientist, to be attached to a distant laboratory by having his assistant working in that distant laboratory?

A. Yes. I have done that. I have had my assistants or men working under me in my laboratory to to other laboratories and work there on problems under my supervision.

Q. Is that a common practice in the scientific field?

A. Relatively so, yes.

Q. Assume, doctor, that you were offered an assignment to work for instance in the University of California laboratory. Now you are situated in the University of Illinois and you sent an assistant to work in the University of California laboratory. Would you feel that you were responsible for the scientific activity of your assistant?

A. Yes, as long as he is under my jurisdiction I am responsible for his scientific activities.

Q. If in the course of his work a death occurred in his laboratory and the assistant reported the death to you, that is, assuming that he is experimenting on human beings. Would you then be impressed or unimpressed by the report given to you that a death occurred in his work?

A. Well, I should be very much impressed and I should either go myself to investigate the circumstances surrounding the death or I should have some one locally in whom I had a great deal of confidence make the investigation and give their report to me.

Q. Then it is the senior investigator's responsibility to care-

fully check the cause of any irregularities in the course of any assistant's research program?

A. Yes.

Q. Is it a common occurrence for a person to die or to be killed in the course of experiments in aviation medicine or clinical investigations of any sort?

A. Yes, it is relatively rare. As a matter of fact I only know of one death which has occurred in all of the experimentation which has gone on in the United States in the field of Aviation Medicine and that is the case of Major Boynton who in the study of free fall bailed out of an airplane I recall at something like 40,000 feet. All of the other experiments worked. I know of no death having occurred.

Q. Well when a death does occur, for example a case like Major Boynton, did the deceased become a so-called medical hero a martyr to medical science?

A. Yes, we consider Major Boynton a hero, a medical hero, in the field of aviation medicine and I might say that on the occasion of his death the causes were investigated very carefully by the Air Surgeon.

Q. Dr. Ivy, because of the fact that you are so familiar with laboratory and aviation research I should like to have you read several documents keeping the context in mind that after which I desire to obtain your opinion as an expert. First I should like to have you read on page 76 of Document Book II. That is—

THE PRESIDENT: Counsel, how long will it take to read and discuss these documents?

MR. HARRY: It might be advisable to adjourn at this time. We could discuss this the first thing in the morning. This will be a rather extensive question.

THE PRESIDENT: Are you going to read these documents into the record?

MR. HARDY: I want to read the particular sections into the record so that it will appear in the record just what Dr. Ivy's opinion will be based on as to the particular section I referred to.

THE PRESIDENT: You might read these sections into the record and then in the morning direct Professor Ivy's attention to those documents.

MR. HARDY: If your Honor pleases, I would just as soon wait until tomorrow morning.

THE PRESIDENT: The Tribunal will now be in recess until 0930 o'clock tomorrow morning.



Official Transcript of the American Military  
Tribunal in the matter of United States  
of America, against Karl Brandt, et al,  
defendants, sitting at Nurnberg, Germany,  
on 13 June 1947, 0930, Justice Beals presiding.

THE MARSHAL: Persons in the Courtroom will please find their seats.

The Honorable, the Judges of Military Tribunal I.

Military Tribunal I is now in session. God save the United States  
of America and this Honorable Tribunal.

There will be order in the court.

THE PRESIDENT: Mr. Marshal, will you ascertain if the defendants  
are all present in Court?

THE MARSHAL: May it please Your Honors, all defendants are  
all present in the court.

THE PRESIDENT: The Secretary General will note for the record the  
presence of all the defendants in court.

Counsel may proceed.

PROFESSOR IVY - Resumed

DIRECT EXAMINATION - Continued

BY MR. HANBY:

Q Dr. Ivy, at the close of yesterday's session I was beginning  
to take up the matters pertaining to the various reports by Rascher,  
and by Ruff, Busberg and Rascher, and I should like to have you read  
parts of those documents, keeping the context in mind, after which I  
desire to obtain your opinion as an expert.

DR. SEIDL: (Dr. Seidl for defendants Gebhardt, Oberhauser and  
Fisher) Your Honor, I object to the questioning of this witness in the  
manner in which it has been done so far, and as apparently the Prosec-  
ution intends to continue. This witness was introduced into this trial  
by an affidavit which concerned itself exclusively with seawater experi-  
ments. Now, the attempt is being made to submit a whole series of docu-  
ments to the witness which are in no way connected with the seawater  
experiments. The attempt is being made to make the witness an expert on  
experiments which are in no way connected whatsoever with the things

stated in his affidavit. I object to this procedure, and more so because this is taking place at a time and place after the other defendants' cases have been concluded as far as the defense is concerned.

In addition several of defense counsel have already made their final pleas based on the results of their efforts and already submitted them to the translation division. Therefore the Prosecution had a chance to find out about these final pleas. I consider it inadmissible after the Prosecution's case is finished its case now after the defense completes its case the whole trial in a certain sense begins at the beginning again, and in answer to certain things which the defense has stated the Prosecution brings in an expert who is supposed to answer what the defense stated. The Prosecution when its case in Chief was being discussed already brought an expert before the Tribunal, that is Dr. Leibbrandt. At the time when Dr. Leibbrandt was examined here in Court this witness was also present in Nürnberg, and the Prosecution would have had the opportunity at that time to question this witness, or this expert before the Court if the Prosecution desired to do so. However, I consider it inadmissible that now, afterwards, the Prosecution examines an expert in regard to documents which contents speak for themselves, at a moment when the Prosecution knows the entire case of the defense by the statements of defendants themselves, as well as by the documents the defense has submitted. I am convinced Control Council Law No. 7 can give no legal basis for this procedure, and furthermore I am convinced that these tactics of the prosecutor are contrary to the general legal principles of any code of legal procedure, because it is not possible after the conclusion of the entire case of the defense again on the part of the Prosecution to introduce new evidence into the trial.

MR. HARRY: May it please Your Honor, I have no comment on this remark other than the fact I request the Tribunal to instruct defense counsel on the theory of rebuttal evidence on the part of the Prosecution,

and I want to make it clear to Dr. Seidl in as much as he was not present when I requested this Tribunal to call Dr. Ivy out of order, as a rebuttal witness of the Prosecution due to the fact Dr. Ivy must return to the states immediately, and on that particular day Dr. Seidl wasn't here, and the Tribunal ruled that we can call him out of order, and he is here as a rebuttal witness. The Prosecution has chosen to call him as a rebuttal witness that is the reason why he did not appear before this Tribunal before.

DR. SAUTER: (For Defendants Ruff and Rombert) May I also take the floor. I ask for permission to speak, Mr. President, especially for those of the defendants who now have to suffer most under the present submission of evidence and by the help of the expert are supposed to be condemned; they are the defendants Dr. Ruff and Rombert whom I am representing. I agree completely with the protest of my colleague, Dr. Seidl, and I would like to supplement his remark by the following: Already at a very early stage of the trial the defense from their point of view considered it suitable, perhaps even necessary, to call some unprejudiced, completely unprejudiced impartial foreign experts, to call them to court for one or another question, and the defense hoped that within this scope of the examination of those experts the difficult medical questions might be clarified impartially. The questions which this trial brings up are especially difficult for us lawyers. At the time, if I am not mistaken, the court refused the applications of two defense counsels to call two foreign experts. Within the circle of the defense counsel we at the time, of course, discussed the attitude of the court, and at that time we reached the conclusion that there is no point in making applications for calling further experts, as the court had told us their negative attitude toward us. Now at the very last moment of the trial and I really have to say, gentlemen, at the very last moment of the trial, the Prosecution comes with a foreign expert, whom we are seeing here for the first time in the courtroom here, and by this means the Prosecution tries to overthrow the entire evidence



submitted so far. I do not consider that correct. The defense counsel have always been of the opinion that here especially, before an American Tribunal, we want to conduct the trial in an absolutely fair manner, and I believe that this cannot be brought in agreement with the fact that yesterday the prosecution announces an expert is coming, first they say about seawater experiments. The expert, without keeping the proscribed time limit, is called and immediately he starts testifying about high altitude experiments when it had not been announced he would testify about those at all. Now, for the defense the result is a very great difficulty from this way of treating the case. I am a lawyer, I am legally trained, just as the judges are, and of course it is very difficult for us to understand these medical questions, even though due to the half year period for which the trial has lasted I have learned quite a bit about these medical questions. It is for the defense absolutely necessary that these difficult questions be prepared in discussion with the defendants in an adequate manner. In a short time spent since last night this has not been possible for us. We speak downstairs in the jail through a glass and through bars to the defendants, and we have found out by experience that every question and every answer has to be repeated two or three or four times until we can understand each other finally, and then we have at our disposal for the discussion of all these important questions a period of perhaps one hour. That is the way it was last night. During this short period and under these difficult conditions to go through these difficult questions for which the expert has prepared himself since January is completely impossible for the defense counsel. As defense counsel I require the prosecution that such a witness who has been at their disposal for months, that the prosecution will in advance tell me what the expert is to be examined about, and if the Prosecutor does not do that, of course, I am powerless, and I shall leave the courtroom with the feeling my clients have been treated unjustly, and I appeal to your



13 June 47-4-KTD-1-5-Maloy (Int. Wartenburg)  
Court No. 1

support, gentlemen. I cannot be expected that such difficult and complicated questions shall be treated by me in such a short time, in such a manner that I have the feeling I have done my duty here. Thus, gentlemen, I ask you not to wait long weeks after the conclusion of the Ruff and Rosenberg case the witness' testimony as he is examined here as an expert on altitude questions.

DR. SEYDASIS: (Counsel for Defendant Karl Brandt.) Mr. President, insofar as I understand it, the expert has been called as rebuttal witness for the defense evidence. To what extent such a rebuttal is admissible under American law, I don't know very well and I don't believe my colleagues know it either. The heart of the matter, however, is that this expert appears here who should have appeared months ago. We think that the unjust part of the question of this expert speaking about all these questions is that he appears as a foreigner while the experts for which we made application has been refused.

The Frenchman, Georges Blanc, even stated to defense counsel he was ready to appear here and we would all have been ready to submit to this authority. This expert here is an American, who is called here in a case of the United States. We have misgivings to the effect that the witness cannot be free and he must be prejudiced and I want to point out this point in particular.

Therefore, I also agree to the application of my colleagues that the examination of the witness insofar as it exceeds the sea-water experiments should be refused.

MR. HARRY: In that connection, Your Honor, insofar as it exceeds the sea-water experiments, I am not aware that the Prosecution introduced the affidavit from Dr. Ivy concerning sea-water, but it was the defense that introduced the affidavit, and it was the defense counsel who limited him to sea-water experiments.

I think I have perfectly qualified Dr. Ivy to testify on the matters which I am to bring up in this examination. I see no reason why I should not be allowed to continue if the Tribunal sees fit to allow me to continue to examine this rebuttal witness at this time due to the circumstances that he must return to the United States on Tuesday.

THE PRESIDENT: It will be advisable that the Prosecution make

a statement concerning the matters concerning which Dr. Ivy will be examined.

As to the foreign experts, requested by the defense counsel, it was never the policy of the Tribunal to order the production of a witness who resided in a foreign country, because it was impossible to enforce the ordering of any witness who had been pretended and who would voluntarily come here. He could be called by the defendants at any time. That was always open to the defendant. But, due to the matters which defense counsel is well aware the Defendants Information Bureau could never undertake to present to summon and procure the attendance of a witness residing in a foreign country as there are too many difficulties and that is a matter of impossibility. The Tribunal adopted that policy in the beginning, as to the procedure in criminal trials. The only procedure we know anything about and are accustomed to is that the prosecution presents its case, the defendants present their case and the prosecution may then call rebuttal witnesses to discuss, consider and testify to evidence introduced by the defendants. This evidence in rebuttal is limited to the defendant's evidence, new evidence is not to be introduced, but just as in the arguments the prosecution offers its arguments, the defense replies and the prosecution replies to the arguments of the defendants. The order of acceptance of evidence follows that same principle.

The witness of course is called out of order but he is called as a rebuttal witness, as ordinarily he would have been called after the defendant's close their case. The defendants in no way are prejudiced in calling this witness out of order. They have the privilege of cross examining him and if the defendants can procure any rebuttal witness the case is still open and if they can call any witness who will come here from any foreign country to testify, the Tribunal will hear him. That rule had been strictly understood at all times. It is absolutely impossible for the Tribunal or the Defendants

Information Center to bring witnesses from foreign countries.

The objection is over-ruled in calling the witness out of order. The testimony of the witness is perfectly regular according to the procedure which has been and will be followed in this and I assume before all other trials pending before these Tribunals.

DR. SAUTER: Your Honor, in consideration of your decision I then make a new application and ask you for permission to make this application right now. Before I stated the reasons why for a legally trained defense counsel it is very difficult, without having a very thorough discussion with his client to undertake a cross-examination or redirect examination about very difficult medical questions. These statements, which the expert made already today, I could discuss only in part with my clients and what the expert will state today I shall not be able at all to discuss with my clients, therefore, it is absolutely impossible for me during the cross examination to clarify everything that has to be clarified in our opinion. Therefore, I make the request to the Tribunal, in consideration of those special circumstances, without prejudice for other cases, the Tribunal should grant me the permission that the necessary questions about these medical matters, that these questions may be asked of the expert by Dr. Ruff himself, as well as at the same time in the name of his co-worker, Dr. Rosenberg. This manner of treating the case seems to me expedient as an exception---

JUDGE SEBRING: Repeat that again, I did not understand fully the import of your request.

DR. SAUTER: I should repeat my request? I just stated that last night in the short period at my disposal, it was not possible for me to discuss all these medical questions with my clients adequately, which were brought up by the expert. Yesterday and today the expert, at the questioning of the prosecution, will and has possibly quite extensively discussed a number of questions regarding



the problem of altitude experiments. It is my duty immediately following the direct examination to ask the expert questions and I am not able to do so, as I am a lay-man from a medical standpoint, I cannot do so without having discussed these questions for hours with my client and have clarified them to such an extent that I can ask the necessary questions and make the necessary representations. In consideration of the special circumstances in this case, I therefore asked the Tribunal that during the cross examination that the questions which I should ask, that the Defendant Ruff be permitted to conduct the cross-examination, and they will be clarified and I believe it would also serve to expedite the trial, if a medical expert a specialist should ask, as a medical expert, the questions of another expert and clarify the medical questions. This should not create a precedent for other cases because this is an exceptional case.

THE PRESIDENT: Doctor, you mean by that your request is that as you examine the press & witness that your client may be allowed to come into the pit with you, sit with you at counsel table and discuss with you the questions to be put and if necessary put the questions himself to the witness who is now in the box; is that the point?

DR. SAUER: Not quite, Your Honor. I would consider it best because the only medical questions which have to be clarified can be clarified during the cross-examination and these questions should be clarified by having Dr. Ruff himself, on his own, ask the questions and conduct the cross-examination. He can formulate the questions, he can understand the answers better and evaluate them better than I as a lawyer. Whether this should be done from his place in the dock where the Defendant Ruff is sitting by having a microphone put in front of him or whether this should be done from some place else, that is up to the President at this time.

MR. ELST: Of course, Your Honor, the prosecution objects to this procedure. I might point out in this connection, Your Honor,

that the examination concerning high altitude will be very limited and defense counsel will have ample opportunity to study with his defendant and perhaps Dr. Ivy will be here until Tuesday and the high altitude will be postponed until Monday. He can spend Saturday afternoon and all day Sunday interrogating the defendant and they can well prepare the cross-examination at that time.

THE PRESIDENT: The Tribunal sees no objection to the defendant Ruff coming down and sitting with his counsel and possibly asking some of the questions himself to the witness. The defendant Ruff, after the witness has testified concerning questions in which the Defendant Ruff is interested. The Defendant Ruff would be excused from the dock to consult with his counsel if his counsel desires until the time for cross examination arrives. In any event the defendant may leave his place in the dock and come down and take a position at the table with his counsel and stand with his counsel. If his counsel deems it necessary or advisable, defendant Ruff may ask the witness some questions himself as the Tribunal desires to afford every possible opportunity for a thorough cross-examination of the witness and that process might result in shortening the cross-examination and making it more direct and to the point. In any event, after the witness has testified concerning the matters in which the Defendants Ruff and Randberg are interested they may be excused from the court if they desire and consult with their counsel until the time cross-examination arrives.

DR. SAUTER: Thank you very much.

BY MR. HADDY:

Q Repeating again, Dr. Ivy, I wish to read portions of several documents and desire that you keep the context in mind so that I can obtain your opinion as an expert. First, I would like to read page 76 of Document Book No. 21 which is a part of the report made by Bracher to Hitler which is Document NG-2203. This is dated May 11, 1942, commencing with paragraph No. 5 and the sentence, "For the following experiments --". That is paragraph No. 5 on page 76, commencing with the words, "For the following experiments," and concluding with the end of the report. I will read that. The interpreters have that section.

"For the following experiments Jewish professional criminals who had committed 'Rassenschande' (race pollution) were used: The question of the formation of embolism was investigated in 10 cases. 8 one of the VP's died during a continued high altitude experiment; for instance, after one-half hour at a height of 12 kilometers. After the skull had been opened under water an ample amount of air embolism was found in the brain vessels and, in part, free air in the brain ventricles.

"To find out whether the severe psychological and physical effects as mentioned under No. 3, are due to the formation of embolism, the following was done: After relative recuperation from such a parachute descending test had taken place, however before regaining consciousness, some VP's were kept under water until they died. When the skull and the cavities of the breast and of the abdomen had been opened under water an enormous amount of air embolism was found in the vessels of the brain, the coronary vessels and the vessels of the liver and the intestines, etc.

"That proves that air embolism, so far considered as absolutely fatal, is not fatal at all but that it is reversible as shown by the return to normal conditions of all the other VP's.

"It was also proved by experiments that air embolism occurs in

practically all vessels even while pure oxygen is being inhaled. One VP was made to breathe pure oxygen for two and one-half hours before the experiment started. After six minutes at a height of 20 kilometers he died and at dissection also showed simple air embolism as was the case in all other experiments.

"At sudden decrease in pressure and subsequent immediate falls to heights where breathing is possible no deep reaching damages due to air embolism could be noted. The formation of air embolism always needs a certain amount of time."

Now, I should like for you to note particularly the following sentences in this passage - that is the sixth paragraph - the passage: "To find out whether the severe psychological and physical effects, as mentioned under No. 3, are due to the formation of embolism, the following was done: After relative recuperation from such a parachute descending test had taken place, however before regaining of consciousness, some VP's were kept under water until they died. When the skull and the cavities of the breast and of the abdomen had been opened under water an enormous amount of air embolism was found in the vessels of the brain, the coronary vessels and the vessels of the liver and the intestines."

Now, Doctor, if you turn to page 91, Document Book No. 2, which you will note on page 83 of Document Book is a page from the report by Ruff, Roscher and Romberg on experiments on rescues from high altitudes. This is Document NO 402. Now, on page 91, starting with the first paragraph, on the top of the page, with the words: "In spite of the relatively large number of experiments." This is Document NO 402 which would be page 16 of the original German, the last paragraph on page 16 of the original German, page 91 of the English.

You have Document NO 402 before you, do you have it?

THE INTERPRETER: Yes, we found it, Mr. Hardy.

Q Now, beginning with that paragraph, on the top of page 91, I will quote:



"In spite of the relatively large number of experiments, the actual cause of the severe mental disturbances and bodily failures (Paralysis, blindness, etc.) attendant upon post-hypoxemic twilight state remains something of a riddle. It appeared often as though the phenomena of pressure drop sickness had combined with the results of severe oxygen lack."

Now, I should like to know, Professor Ivy, whether the sentence we have just read - that is, the first sentence we read in the Rescher report - that was Document NO 220 which says: "To find out whether the severe psychological and physical effects, as mentioned in No. 3, are due to the formation of air embolism, the following was done"; has the same general meaning and implication of the two sentences we just read in the Ruff, Rosberg and Rescher report, Document NO 402, which says: "It appeared often as though the phenomena of pressure drop sickness had combined with the results of severe oxygen lack."

A Yes, they refer to the same subject matter.

Q Does the expression "severe psychological effects" in the Rescher report mean the same as the "severe mental disturbances" in the Ruff, Rosberg and Rescher report?

A In my opinion, they do.

Q Does the expression "such a parachute descending test" in the same paragraph of the Rescher report mean the same thing as the expression "descending test" in the Ruff, Rosberg and Rescher report?

A Yes. In that connection I should like to point out that in paragraph 5 on page 76 Rescher uses the expression "continued high altitude experiment." In that paragraph that is a different type of experiment from that referred to in paragraph 6 in the same report where the expression "parachute descending test" is used.

Q Well, did not the experiment about which we have just read on page 76 of Document Book No. 2 - that is the Rescher report, Document NO 220, in which the VP's were kept under water until dead and their blood vessels examined for air embolisms - bear directly on the solution

of the "actual cause of the severe mental disturbances" of the Ruff, Rosenberg and Rascher report referring to page 91 of Document Book No. 2, Document NO 4021

A Yes.

Q In view of the fact that Dr. Rosenberg says he reported the death of three aviation subjects to Ruff, in view of the findings of air embolism in some of the subjects killed in parachute descending tests in Rascher's report, and in view of the interest of Rascher in his report and of Ruff, Rosenberg and Rascher in their report on the cause of mental disturbances, is it probable beyond reasonable doubt, in your opinion, that Ruff, when he approved, read or wrote paragraph 2 on page 91 of Document Book 2 which starts with the words, "In spite of" , did have in mind Rascher's experiments of air embolism?

A In my opinion, yes.

Q Can you be a little more elaborate and tell us why? Tell us what you base your opinion on, Doctor.

A It has been the theory for some time that the symptoms associated with decompression or pressure drop sickness may be due to the formation of gas bubbles in the blood vessels of the brain or collection of gas bubbles in the regions of the joints or the collection of gas bubbles in the blood vessels of the lungs.

When the bubbles collect in the blood vessels of the brain they are supposed to cause a physical or mental disturbance or paralysis. When the gas bubbles collect in the region of the joints, they are supposed to cause pain in the region of the joints. When the bubbles collect in the blood vessels in the lungs, they are supposed to cause the chokes or attacks of coughing.

That has been a theory that has been held for some 15 or 20 years, and one in the field of Aviation Medicine must have known about it for sometime.

Secondly, if Rascher had observed bubbles as is described in his report, document 228, and since Dr. Ruff was associated at the Laboratory at Dechau, since Dr. Romberg was there, obviously these findings of Dr. Rascher could not have escaped the attention of Dr. Romberg and Dr. Ruff. It is for that reason that it seems to me to be logical to deduce that Dr. Ruff must have known about the findings described in document 320 when the report or document 403 was written.

4 And the language on page 91 --

THE PRESIDENT: (Interposing) Just a moment. The Tribunal would advise Counsel for defendant Romberg, that if Counsel would like his client to sit beside him at his table, the client may do so. The defendant Romberg also, it appears that defendant Romberg's Counsel is not present. If defendant Romberg would like to choose some other Counsel to act for him in this cross examination, he may do so. Both of the defendants may come down and sit at table with their Counsel while this examination is proceeding, now. Understanding the Counsel desired that this procedure be followed, the Tribunal directs the defendant Ruff and defendant Romberg also, step from the dock and sit at the table with Counsel.

MR. SAUFER: Your Honor, when the report from which quotations are read, I would request Mr. Hardy to state the German pages of the document, too, because it is very difficult for me if I only hear the English page numbers, to find the quotation, and by the time I have found the quotation, Mr. Hardy has already gone on to another question.

MR. HARDY: Your Honor, I will request the Interpreters to refer to the page number. I am unable to read German.

THE PRESIDENT: The Counsel's request will be complied with.

Now, in regard to the defendant Romberg's Counsel not being present, I would ask him if he will choose any other Counsel that is



present to sit beside him, if he desires.

(No reply from defendant Romberg)

I understand defendant Romberg is content to sit beside defendant Huff without having any other Counsel designated.

Counsel for the Prosecution may proceed.

Q In view of your opinion concerning these two reports, then, do you feel, Dr. Ivy, that the language contained in page 91 of the document book 2, the paragraph beginning with "In spite of...", was obtained from the result of experiments by Rascher?

A No, the point I am making is, because of the nature of the subject matter, and a prior knowledge from the observations in the Rascher experiments, the ideas expressed in paragraph 2, document 403, cannot be separated from those in the paragraphs, the contents of which we have been discussing on page 76 in document 220.

Q Thank you. In so far as experience in research in Aviation medicine is concerned what was the order of seniority in the case of Huff, Romberg, and Rascher?

A I should say that Dr. Huff, is senior, because of his experience and standing; Dr. Romberg, second, because of his experience and training; and Dr. Rascher, third. That is their scientific seniority.

Q Well, under such conditions is it not likely that Rascher got his idea to look for air embolism from the two men with the experience, namely, Huff and Romberg?

A That is possible, unless Rascher had access to literature on the subject of the cause of decompression or pressure drop sickness, and got his idea from reading the literature.

Q Well, are you able to ascertain from the evidence here whether or not Huff and Romberg had knowledge of such books as Rascher may have had access too?

A No, but it is very reasonable to assume that Huff and Romberg had access to the literature on this subject.



Q Is it not the usual practice in any laboratory for the senior investigator to assume charge, especially when life is endangered?

A Yes.

Q The senior investigator has the greatest responsibility, does he not?

A In my opinion he does.

Q Assume for the moment that I was acting as your assistant in a laboratory, say at Wright Field, United States, in a field of high altitude research, and at that time I was experimenting on a human being, and had him up to an altitude of 18 to 20,000 meters and left him there until such time as he died; and, during the course of this experiment you were able to observe electro-cardiograms, to observe the conditions of the experiment; would you, then, have assumed responsibility and stopped not?

A I should have, yes.

Q Is that your duty to stop me?

A I personally should consider it so.

Q Assume that you were not my superior, that is, I was not working as your assistant, but that you were an observer, but a senior investigator; in the same problems would you still feel it was your duty, as a scientific investigator, senior, to stop me if life was to be endangered?

A It seems to me it would be my moral duty.

Q In Rescher's experiments in which he killed human subjects at high altitudes, and examined the blood vessels of the brain and other tissues; was the purpose of his experiments to examine the blood vessels of the brain and other tissues, when he killed people at high altitudes?

A On the basis of his reports, at least it was one of his objectives.

Q On page 6583 of the official transcript — you have the German page number for that?

INTERPRETER: Yes, page 6677 in the German text.

Q On the page of the transcript, Dr. Ruff testifies that five to ten minutes are required for bubbles to form at an altitude of 12,000 meters; is that correct, Doctor?

A Yes, I agree with that statement.

Q He testified further that when bailing out at 16,000 meters and falling in an open parachute, these people were at heights about 12,000 meters for three minutes; is that correct?

A Yes.

Q He concludes that since the subjects were only about 12,000 meters for three minutes, the bubbles in the picture from Pascher's autopsy cases, could not have occurred with the probability that bordered uncertainty in experiments from rescue from high altitudes. Do you agree?

A I do not agree with the explanation that it may occur on the basis of probability that basis on uncertainty for this reason, that we know on the basis of development of symptoms of decompression and pressure drop sickness, on the basis of x-ray evidence, that bubbles may form at an altitude as low as 30,000 feet. There is some evidence indicating that bubbles may form at an altitude as low as 25,000 feet; hence it is possible for, in this particular case, for the bubbles to start forming at the original altitude, we shall say 47,000 feet, and the formation continued as slow paralysis occurred. So, the fact that the subject was at an altitude between 47,000 and 40,000 feet only about three minutes does not preclude the possibility that bubbles formed in this particular subject are continued to form in this particular subject at lower altitudes as expostulated by Dr. Ruff. Now, by submitting this testimony or explanation, I do not mean to imply that this particular subject was one of the subjects referred to as being a subject of slow descent or one of the subjects in the Rescher

18 June 47 MSJC-4-5-Board (Int., Wartenberg)  
Court I

report. I simply want to correct scientifically the interpretation  
which the witness himself on page 6523 gave.

Q On page 6592 of the record - what page is that in German?

INTERPRETER: Page 6686 in the German transcript.

Q On page 6592 of the record Ruff testifies that he knew that these deaths - three reported to him by Romberg - had not occurred in the experiments for rescue from high altitude but in other experiments which Rascher carried out on orders from Himmler and answers: "There was no occasion to mention these deaths in this report." That is Document NO-402. That's the final report of Ruff, Romberg and Rascher. If Ruff based his statement that he knew these deaths had not occurred in the experiments of rescue from high altitude on this preceding deduction could he be justified in concluding that the three subjects did not occur in his and Romberg's subjects?

A No. As I pointed out I do not believe that explanation that was given on page 6592 of the record shows that the subject referred to as having gas bubbles in his blood vessels came from a continued high altitude experiment. It was reasonable to believe that that subject came to a slow parachute descent experiment.

Q Hence it was a question of rescue from high altitude?

A Yes.

Q In the case of the first death Romberg in his affidavit, which is Document NO-476 on page 2 of Document Book II, states that he was recording and studying the electrocardiogram and then later he testified that this death occurred in one of Rascher's experiments and not one of his and Ruff's. Is it possible from your study of the documents that this first death could not have been one in the field with which Romberg and Ruff were concerned and could have been a death of one of their subjects?

A Either is possible. It could have been a death resulting from one of Rascher's continued altitude experiments or one of the experiments involving rescue from high altitude.

Q On page 6920 of the record - would you kindly give the German



page number, please?

INTERPRETER: German page 7011.

Q I thank you. On page 5920 of the record at the bottom of the page Rascher is asked - pardon me, Rosenberg is asked - "Now you had not other clues to pressure drop sickness than Rascher's air bubbles which he had shown to you during an autopsy, had you?" Rosenberg replied, quote: This is the question on page 5920, the last question at the bottom of the page, the question beginning, "Well, now here are some tell tale remarks of this connection...." This is the last sentence in that paragraph of the question which I will repeat: "Now, you had not other clues to pressure drop sickness than Rascher's air bubbles which he had shown to you during an autopsy, had you?" To this Rosenberg replied: "No, the air bubbles which one sees in an autopsy are not proof of this. They didn't necessarily have anything to do with it. One cannot say that the picture of gas embolism necessarily leads to the symptoms." Now, are these statements or this view correct according to best opinion Dr. Ivy?

A Best opinion at the present time is that symptoms of decompression sickness - pressure drop sickness - are due to the formation of gas bubbles in the tissue or blood vessels.

Q Then, Dr. Ivy's view is not the best or widely accepted opinion on the subject?

A No.

Q Did you ever publish an article on this subject?

A I have published two articles on this subject and the Committee on Decompression Sickness of the National Research Council of the United States is writing a book on decompression sickness and evidence collected comes very close to establishing the bubble theory of symptoms of pressure drop sickness as a fact. I might say that the most convincing evidence in support of this bubble theory in the case of symptoms of pressure drop sickness is that if the subject breathes oxygen for one, two, or three hours before going to high altitude, in order to wash out

the nitrogen from the body, bubbles do not form and the symptoms of decompression sickness do not occur.

Q Well, then in summation the best opinion on the subject is that the symptoms of decompression or pressure drop sickness is due to bubbles in the blood vessels and tissues.

A Yes.

Q And you say the best evidence of that is the fact that breathing oxygen for an hour or so to wash out nitrogen of the body is the only way to prevent the symptoms and the formation of the bubbles?

A Yes.

Q Is there any other explanation of how the pre-breathing of oxygen prevents the symptoms?

A None other.

Q Doctor, will you please refer to page 5928 of the record.

INTERPRETER: Page 7919 in the German transcript.

Q Now, Doctor IVY, on page 5928 of the official transcript of this trial we read Bomberg's description of the circumstances surrounding the first death. Now, will you refer to page 5933 of the record and I wish to read on page 5933 - the German page number for that, please?

INTERPRETER: 7024.

Q The question and answer at the bottom of the page to which Bomberg answers "It was not so clear to me that he was a murderer, neither morally or legally is it quite clear, I said already." As a physician and a scientist having studied the circumstances surrounding the death of this prisoner, what is your opinion?

A It appears to me that the killing could only be viewed as an execution or as a deliberate killing or murder. If these subjects were volunteers the deliberate killing could not be an execution - it could only be a murder.

Q Will you read page 5932 of the record, going back one page.

THE PRESIDENT: Counsel, court is about to recess. I would ask the

defendant Rosenberg if he knows where his counsel is?

DR. ROSENBERG: My defense counsel has been informed by telegram but I don't know whether he can come back. I expect him to come back today but I am quite satisfied with being represented by Dr. Sauter.

DR. SAUTER: Your Honor, regarding representing Dr. Rosenberg, there will be no difficulties because during the past week I have anyhow every evening when I spoke with Dr. Ruff I also discussed his case with Dr. Rosenberg in order to be able to represent the interests of Dr. Rosenberg during the absence of his defense counsel. Therefore, Dr. Rosenberg will not interpose any objection.

THE PRESIDENT: Very well, counsel. Now counsel understand, not only counsel for the defendants Ruff and Rosenberg, but other counsel as well, that if in connection with this examination counsel desires to consult with their respective client, it will be arranged that they may do so at any time, at noon, or may be excused from the Tribunal for consultation with their clients if they desire upon request of the Tribunal. Any such reasonable requests will be entertained. The Tribunal will now be in recess for a few minutes.

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: The Tribunal desires to announce again that the Tribunal will be in session tomorrow, Saturday, from 1:30 until 12:30, and possibly will be in session tomorrow afternoon. That matter will be determined later when we ascertain how rapidly the cross examinations of the witness progresses, but at least the Tribunal will be in session from 2:30 tomorrow morning until 12:30--on Sunday.

Our counsel may proceed.

BY MR. EARDY:

Q. Dr. Ivy, again I wish to ask you to hesitate after I ask a question before you answer, so that the interpreters may have an opportunity to interpret our questions and answers more precisely? If a collaborator of yours deliberately killed a person in your laboratory, and a colleague reported it to you, what would you do about it?

A. I should make a careful investigation of the report and if the report were true I should report it to the police.

Q. Would you make an attempt to also report it to your superiors if you had people to whom you were subordinated?

A. Certainly.

DR. SEIDL: (Seidl for Goeckardt, Fischer and Oberhauser.) Mr. President, I object to that question.

THE PRESIDENT: The objection is sustained. The question and answer will be stricken from the record.

Q. As you know, in Document No. 402, this document represents a printed report of Ruff, Rosenberg and Rascher, which was written the 28 July 1942 and the death occurred in the Rascher experiments in April or May 1942. At that time according to the record Ruff knew that at least three deaths had occurred and Rosenberg knew of more. Here then we have two scientists joining their names as co-authors



with a man whom they regarded either as a murderer or of such culpability that they refused to work with him again; in your opinion as a scientist in matters of a scientific nature of this sort and research problems such as we are concerned with here, which would be the most important thing for the scientist to do, to see that Rascher was apprehended and other deaths prevented, or to take a chance that the scientific results in the joint report might be lost to the world in the instance that the case against Rascher was not pushed.

THE PRESIDENT: The question propounded by counsel to the witness is purely a legal question and should not be answered by the witness.

MR. HARDY: I submit, Your Honor, the questions I am propounding to the witness are problems that will confront scientists all over the World. I am attempting to present a set of facts that a scientist would do if he was the senior scientist in case such a situation arose in his laboratories.

JUDGE SERRING: Isn't it possible, Mr. Hardy that this Tribunal will, in its opinion, answer that question in such a way scientists in the future will have some landmark to guide them.

MR. HARDY: That is true, Your Honor, but defense counsel have brought up here that six persons died of high altitude experiments in the U. S., I also want Dr. Ivy's opinion on that which coincides with the questions that I have just asked and which the court has stricken from the record.

JUDGE SERRING: That is a different question. The question propounded by counsel to the witness is objectionable and will not be answered.

Q. Before this Tribunal, Dr. Ivy, we have heard testimony to the fact that in an experiment on high altitude in the U. S. some six persons died. It has also been alleged in experiments in the U. S. that only a sergeant and not a physician was first in charge of the high altitude chamber; do you know anything about that?

A I know of no deaths which have occurred in the course of real experimentation in aviation medicine in the United States during the war, I know of some deaths which occurred, however, in the course of routine indoctrination of medical officers, pilots, and aviation personnel in the use of oxygen equipment at high altitude those deaths have been thought to be due to the exposure to high altitude, although no real proof of that was forthcoming. When tens of thousands or even hundreds of thousands of people pass through a routine you can expect some to die simply as a matter of course. I don't know how many of these people would have died simply in the course of being examined medically or of natural causes.

Q Then, in summation you do not know of any deaths which occurred in real experiments in an altitude chamber in the United States?

A That is correct. In regard to the sergeant, it is true that a sergeant, adequately trained, was in charge of the operation of the chamber, but a medical officer or scientist was always at hand in the room or in an adjacent room.

Q Well, then you state that in routine altitude training programs, in which hundreds of thousands of persons I presume are routinely indoctrinated regarding the use of oxygen equipment and the symptom of altitude, either four, five or six persons died in the United States?

A Yes, I can assure you that the circumstances under which these deaths occurred were thoroughly investigated by appropriate commissions or committees.

Q Then, in the course of experiments in the United States the only death that you know of is the death of Major Dr. Voyden who was killed in an experiment on a free fall from a plane in an altitude chamber?

A Yes.

Q If Your Honor please, I have no further questions to put to Dr. Ivy concerning high altitude. If the Tribunal has any questions at this time I will not proceed with my other subjects.

BY JUDGE SEERLING:

Q Dr. Ivy, I direct your attention, Sir, to Prosecution Document No. 402, which has been received in evidence as Prosecution Exhibit No. 66 and appears in Prosecution Document Book No. 2 at pages 32 to 99, inclusive, the Ruff, Rosenberg, Rascher report?

A Yes.

Q Are you thoroughly familiar with that report?

A I have studied it quite carefully.

Q Can you state for the information of the Tribunal whether there is any scientific conclusions or information contained in that report, which could not have been gained solely from the experiments supposed to have been conducted by Ruff, Rosenberg and Rascher in collaboration?

A Will you have the question read again, please?

Q Could you say whether or not there are any scientific conclusions or whether there is any scientific information contained in that report, which could not have been obtained or gained solely from the experiments supposed to have been conducted by Ruff, Rosenberg and Rascher in collaboration at Dachau. I make a distinction, you understand, between Ruff, Rascher and Rosenberg and the Rascher experiments, which Ruff and Rosenberg maintain was conducted by Rascher independently under an order from Himmler.

A I understand. The conclusions in the report of Ruff, Rosenberg and Rascher, Document No. 402 could have been made solely on the basis of the findings and data submitted in that report without any knowledge of the results of the experiments purported to have been performed by Dr. Rascher.

Q Is there anything in the Ruff, Rosenberg, Rascher report of experiments from which it can be said with absolute certainty either that deaths, permanent injury or extreme pain resulted to the experimental subjects who took part therein?

A No, but you may recall that I reported that there is a possibility that there may have been some damage to the learning mechanism of the

due to long exposure of the brain to oxygen lack. That was not tested for in the studies of Ruff, Rosberg and Rascher.

Q Is there such a thing as an experimental subject becoming acclimated to the experiments he is undergoing at high altitude so that eventually he reaches the point where the results obtained from the observation of his routine during the course of the experiments would not be the same as it would be for a new subject?

A No, the matter of adaptation has received considerable attention by investigators in the field of aviation medicine in the United States. I, myself, have studied the matter in relation to the occurrence of bends, which is pains in the region of the joints in the exposure to high altitude. I subjected seven subjects to an altitude of 37,500 feet from 70 to 150 times during the course of 12 to 18 months. One of these subjects became less resistant to exposure to altitude, insofar as the occurrence of bends was concerned. The other subjects showed no change, no adaptation, that is a matter that the subject apparently to individual variations is positive or negative. Adaptation to some extent may occur. By that I mean an occasional individual may become more resistant or less resistant to exposure to altitude.

THE PRESIDENT: Counsel may proceed.

SEN. WADSWORTH:

Q Professor Ivy, in the high altitude experiments, as outlined in the Ruff, Rascher, Rosberg report, do you consider that those experiments were particularly dangerous?

A Those experiments which are done with slow descent from high altitude, that is with the parachute opened after bailin' out from the plane, associated with a long period of oxygen lack and they were dangerous experiments for that reason.

Q And would you be reluctant to perform them yourself?

A I would be reluctant to perform them, yes.



Court 1

Q In the course of this trial, Dr. Ivy, we have had considerable testimony concerning experimentation on human beings and problems of medical ethics. At this time, I wish to discuss with you those conditions under which human beings have been used in medical experiments and which conditions are considered to be ethical and legal.

First, I would like to have you explain to the Tribunal in detail the experiments on yellow fever by Dr. Walter Reed as told in the yellow fever compilations on various publications, Document 822, United States Government Printing Office 1911.

DR. REED: Your honor, I object to the expert witness being examined on these general questions. I remind you of the following. A number of defense counsels have included in their document book experiments from international literature from all the civilized countries in the world. In order to demonstrate what the attitude of the medical profession and medical ethics is to the problem of the permissibility of experiments on human beings.

In almost all these cases the Court has ruled that this problem should be postponed until the conclusion of the presentation of evidence and only then would the Tribunal rule whether and to what extent the experiments from international medical literature are to be accepted in evidence. This attitude on the part of the Tribunal must also be maintained, in my opinion, at the present time where an expert from America is being examined on these questions.

If the defense during the course of the trial and until the conclusion of the trial has no opportunity to put literature then this would be a struggle on an unequal basis. If the prosecution has the opportunity to produce one witness after another and have these witnesses it has chosen answer these questions whereas the defense during the course of presentation of months did not have this opportunity, consequently, I object to this line of questions and ask that it be not permitted.

Court 1

THE PRESIDENT: Counsel's question to the witness simply referred to a certain publication concerning a certain experiment by a late Dr. Walter Reed. The witness has not been asked concerning his knowledge of this matter. If there is a publication referred to by a counsel that publication would be the best evidence. The witness might testify, if able, from his own knowledge, but the mere report itself would be the best evidence of what happened in connection with the matter referred to by counsel's question.

MR. HARDY: Unfortunately, Your Honor, all these reports are not available. I might say that, without exception, most of the defendants have brought up the subject when they were on direct examination about various experiments. I remember, I believe that Trugowsky mentioned the Reed's experiments. Rose quite strongly mentioned the experiments of Colonel Strong on beri-beri, and plague throughout and Dr. Ivy has considerable knowledge of all these experimental projects; and I think it would be of interest to the Tribunal to hear the information he possesses concerning the circumstances surrounding each experiment.

THE PRESIDENT: Counsel has not shown from the witness that he has knowledge concerning these matters. If the witness has knowledge, of it counsel may propound a question to him concerning them.

MR. R. HARDY:

Q Dr. Ivy, do you have knowledge concerning the yellow fever experiments by Dr. Reed?

A Yes, I have a photostatic copy from the report, "Yellow Fever Experiments by Walter Reed."

Q Do you have any knowledge as to the circumstances surrounding these experiments-- that is, whether or not the subjects used were volunteers in the method of procuring the subjects, experimental subjects, and other circumstances which Walter Reed encountered the course of his experiments?

Court 1

A I have, as revealed by the publication.

Q Do you have knowledge of the experiments of Colonel R.P. Strong and Dr. E.C. Crowell on the bari-bari experiments?

A Yes, as revealed by the publication of their experiments.

Q What is the date of that publication?

A The date of that publication was 1912.

Q Do you have information concerning the experiments of Colonel R.P. Strong on, "Demonstration on the Development of Immunity to the United Living Plague Organisms in Man?"

A Yes, as published in the Philippine Journal of Science in 1906.

Q Do you have information concerning the experiments on Typhoid fever made in 1917 as appears in the report of the communication of the Medical Research Committee of the American Red Cross, printed by the Oxford University Press?

A Yes, as revealed by that publication.

Q Do you have knowledge of an experiment on poliomyelitis on white male convicts by Joseph Goldberger and Dr. T.A. Smith?

A Yes, as revealed by the publication of their work in the archives of International Medicine in 1920.

Q Do you have information on the experiment on the Vaccination of Human beings against Exanthematic Typhus by Felix "Ventolmeier."

A Yes, as published in the Journal of Immunology in 1939.

Q Do you have any other knowledge concerning these experiments from discussions with people participating therein or is your knowledge limited to that of publications?

A I discussed the matter of plague experiments with Colonel Strong, with Dr. E.C. Crowell, was collaborator in the bari-bari experiments.

Q Have you discussed these matters with any other physicians who participated in or have direct knowledge of the experiments?

Court 1

A Not of the experiments which your questions have referred up to the present time.

Q Are you in a position to tell us the conditions surrounding the experiments on Yellow Fever by Dr. Walter Reed.

A I can as they are described in the publication.

THE PRESIDENT: Just a moment, Doctor.

DR. LAMARCA: Mr. President, I object to this line of questioning of the expert witness regarding these experiments. The expert witness, according to what he told us yesterday about his career, is a physiologist but he is not a bacteriologist and not a hygienist. For that reason, in my opinion, he is not an expert in this sort of experiments for which only a bacteriologist would be an expert. These are solely exclusively experiments that were carried out with bacteria.

R. A. BAILEY: I might put one more question to Dr. Ivy to qualify, Your Honor.

Q A. BAILEY:

Q Dr. Ivy, have you participated in a program covering medical ethics and human medical experimentation in behalf of the American Medical Association?

A Yes, and also I am chairman of the committee appointed by Governor Green in the State of Illinois to consider the ethical conditions under which prisoners and penitentiaries may be used ethically as subjects in the medical experiments.

In order to substantially carry out your position in the American Medical Association and in the Committee as appointed by Governor Green of Illinois, did it become necessary for you to exclusively study the conditions surrounding all the other experimental programs and services in medical history in order to apply device rules of medical ethics to be applied in the course of medical experimentation on human beings?

A Yes, I had to see what the common practices have been.

R. A. BAILEY: In view of that, Your Honor, I submit that the



Court 1

witness is qualified to testify concerning these problems.

DR. SAUTER( Counsel for two defendants Ruff and Rosenberg):

Mr. President, I beg your pardon for interrupting but I should like to draw your attention to the following points: first, if the witness is asked whether he knows something regarding such and such a matter then I should like to know, in order to avoid repeating all these matters, from what date on the witness has this knowledge. In order to evaluate what the witness testifies to, it is important to know whether he has this knowledge from publication of ten or twenty years ago or whether he acquired this knowledge perhaps a week or two weeks ago in Murnberg from a defense document book; secondly, if the witness claims to be a member of a committee and in his capacity is a member of that committee to have such and such knowledge, then I think it is necessary for him to state how long he has been a member of that committee how long that committee has been in existence and how long he has had this knowledge, and then, Mr. President, one other point.

If the Prosecution is permitted in this way to take all sort of quotations from medical literature and to submit them and put them to the witness and to examine the witness on them and on what his opinion is as an expert on this literature, which all of us can read and form our opinion on, then the defense must also have that same right; but I am afraid that if we follow this practice of the prosecution we shall have to put the witness on the stand again a week later. I bring this to your attention in order to avoid future difficulties.

DR. FLEMING: Mr. President, I object to the witness being interrogated in this way because he is not a Hygienist nor a Bacteriologist and, therefore, does not have the necessary specialized knowledge. When Mr. Hardy asked him, the witness stated that he belonged to committee which concerns itself with the question of the ethical problems of experiments on prisoners. I believe that membership in such a committee can never replace the knowledge that Bacteriologists must have, and which alone can be the prerequisite for giving expert testimony here on such medical questions. The witness also stated that he knows of these experiments from literature, but I do not believe mere literary knowledge alone is sufficient for expert testimony here. And, I should like to emphasize what Dr. Sauter has just said, namely, that it must be determined whether the expert witness has his knowledge from our document books or whether he has read any original publications.

MR. HARDY: Your Honor, in this regard, apparently I have not made myself clear. Dr. Ivy is not going to testify as an expert concerning matters of bacteriology. I am merely putting this question to him in the same manner as Professor Lightburn testified. Dr. Ivy, in the course of his career has had ample opportunity to study experimental problems in medical history. He is fully aware of the experimental progress in the United States. He can testify as to the conditions of the experiments, namely, whether or not the experimental subjects were volunteers; whether they were forced in the experiments and so forth, as indicated from the studies, in the same manner as Professor Lightburn did. Professor Lightburn indicated that he knows personally from his own knowledge of the nature of the medical history.

THE PRESIDENT: Propound the witness some further questions to show to the Tribunal his knowledge concerning this matter.

BY DR. HANCOCK:

Q From your knowledge of yellow fever experiments, by Dr. Walter Reed, can you tell us how he used experimental subjects?

A He used volunteers from the U.S. Army, but before that

Dr. Carroll permitted himself to be bitten by infected mosquitoes, and another Doctor in experimental tests, was also bitten by a mosquito, Dr. Lazar. Dr. Carroll and Dr. Lazar died, and in this particular group of experiments, Dr. Carroll and Dr. Lazar were the only ones that died.

Q Among the experimental subjects were there any deaths, that is, soldiers who volunteered for the experiments?

A No.

Q Were the soldiers offered a reward or any inducement to undergo the experiments?

A As I recall they were, and refused it. I am not certain about that. I have information on that from this report on the yellow fever experiments which I could read, if that is appropriate.

MR. HARRY: If the Tribunal desires to have this report read Dr. Ivy will read it. I do not think it is necessary, Your Honor.

THE PRESIDENT: What is that report; report by whom?

DR. IVY: This is a document from the Government printing office, United States, Washington, D.C., entitled "Yellow Fever, a Compilation of various Publications"; and it is an official document, No. 522. It was from the 61st Congress.

THE PRESIDENT: Contains reports made by officials of the United States Government, Army or otherwise, to the Congress of the United States?

DR. IVY: That is correct, presented by Mr. Owen.

THE PRESIDENT: Well, the witness may testify and analyze that document as briefly as possible for the benefit of the Tribunal.

DR. IVY: The subject of the first experiment was a young private from Ohio, named John R. Kissinger, who volunteered for the service to use his own words: "Solely in the interest of humanity and the cause of science." When it became known among the troops that subjects were needed for the experimental purposes, Kissinger in company with another young private named John J. Moran, also from Ohio, volun-

teared their services. Dr. Reed talked the matter over with them explaining full the danger and suffering involved in the experiments should they be successful; and, then seeing that they were determined, he stated that monetary compensation would be made to them, but both men declined to accept it, making it indeed their sole stipulation that they should receive no pecuniary reward, whereupon Major Reed touched his cap saying respectfully, "Gentlemen, I salute you."

BY MR. HARDY:

Q What is the date of that publication?

A The date of this publication is 1911.

Q In the course of Dr. Reed's experiments, did he use any natives?

A I am not certain.

Q Did you ever hear tell whether or not he used natives, and offered them a money reward for undergoing the experiments?

A No.

Q Do you know whether or not Walter Reed, in the course of any other experimental program, used natives?

A No. I might say that when I was asked by the American Medical Association to serve in the capacity of advisor, I did my best to cover the medical literature in situations where human beings have been used, in hazardous experiments in order to inform myself regarding the conditions under which they were used.

Q We have been informed here that natives were used by Walter Reed in his experiments, but you are unable to enlighten us further?

A I know nothing about that.

Q Now, in the experiments of Colonel R. F. Strong and Dr. B. C. Crowell on Beri-beri; where were those experiments performed?

A They were performed in Manila, Philippine Islands.

Q Who was used as experiment subjects in those Beri-beri experiments by Colonel Strong and Dr. Crowell?



A, they were prisoners who were condemned to death, but who had volunteered to serve as subjects.

Q In your opinion, is a person condemned to death in a position to volunteer for a medical experiment?

A Yes; they can say yes or no, and if the matter is ethically presented to them that there will be no coercion if they say, yes.

Q How would you approach --

A Unless they were threatened with punishment.

Q How would you approach a person condemned to death for use in a medical experiment; would you approach them directly or would you have notices sent out, radio appeal, or what would be the method of attempting to secure the services of a criminal condemned to death?

A In my opinion they should be approached through a written document sent to them or posted on a bulletin board or by communication by word of mouth in which the purpose of the investigation, medical study, is outlined, in which the hazards of the experiment are indicated; and, where it is pointed out that there will be no punishment or penalty in case the individual does not volunteer.

Q In these experiments by Colonel Strong and Dr. Crowell on Beri-beri, were these criminals condemned to death offered a pardon or offered a commutation of sentence if they survived the experiments?

A No, they were not.

Q They were not offered a pardon?

A No, they were not offered a pardon or commutation of sentence?

Q Were they offered any reward?

A They were offered only extra cigarettes or cigars if they desired them.

Q Did any of the experimental subjects used by Colonel Strong and Dr. Crowell in their Beri-beri experiments die?

A No.

Q When did these experiments take place, Doctor?

A They took place in 1912.

Q And, you base your knowledge of these experiments from personal conversation with Colonel Strong, Dr. Crowell, and publications?

A My knowledge is based on the publications in the American Journal of Science and by personal conversations with Dr. S. C. Crowell who is in charge of Cancer Research of the American College of Surgeons, and resides in Chicago, Illinois.

Q In the experiments by Colonel Strong on the demonstration of the development of immunity to living organism in the man, do you know whether or not volunteers were used?

A The article states that prisoners condemned to death were used. I discussed this matter with Dr. Crowell who informed me that these prisoners were exactly in the same category as those used in the Beri-beri experiments; that they were volunteers.

Q For the moment, doctor, we have discussed the capacity or ability of a criminal condemned to death to volunteer for an experiment. What is your opinion about the ability or capacity of a person incarcerated in a prison to volunteer for an experiment, that is, a person not condemned to death?

A There is no doubt in my mind that they can freely volunteer to serve as a medical subject, provided no coercion is exercised in getting them to say yes or to volunteer.

Q Can you tell us whether or not anyone died in the course of the experiments by Colonel Strong and Crowell in the plague problem?

A No one died.

Q An experiment on trench fever was made in 1917. Who made that experiment?

A That was made by a committee working under the auspices of the Surgeon General of the United States Army and of the American Red Cross.

Q What was the status of the subjects used in that experiment?

A They were volunteers from the United States Army and before volunteering the purpose of the experiment and the possible hazards were explained to the volunteers.

Q Who were the volunteers?

A Soldiers. United States Army.

Q In the experimental program pellagra with convicts, who conducted those experiments?

A They were conducted by Dr. Joseph Goldberger as the senior author. They were published in the archives of Internal Medicine in 1930.

Q Does that publication give the details of the experiments?

A It states that the experiments were performed on convicts who were volunteers and other details are not given.

Q Do you know under what circumstances these convicts volunteered for these experiments?

A The details are not given in the published article.

Q Have you ever had the opportunity to talk to Dr. Josef Goldberger or Dr. T. A. Wihl?

A No, I have not.

Q Then your knowledge is limited to the publication in the archives of Internal Medicine, Volume 35, published in 1920?

A That is correct.

Q Do you know whether anyone died in these experiments or suffered a great deal?

A No one died but some of the subjects developed pellagra.

Q Did they suffer to a great extent?

A They suffered to some extent but as soon as the symptoms appeared treatment was instituted.

Q Was there any comment in the United States at that time concerning the manner in which Dr. Goldberger and Dr. Wihl and their assistants conducted these experiments?

A No, and I have never heard the experiments criticized.

Q In the experiments which were made by the United States Armed forces concerning the testing of various vaccines do you have any information on that subject?

A Yes. I have in so far as the method of developing and testing the typhus vaccine used on our soldiers in the last War.

Q What do you base your knowledge on?

A I base my knowledge on reading a report of this work which is in one of the United States Public Health publications and also from a letter written me by Dr. Topping of the United States Health Service who did this work, the developing of the typhus vaccine that was used on our troops.

Q Can you tell the Tribunal something about the particulars concerning the development of our typhus vaccine in so far as experiments are concerned and the method of experimentation, the purpose, about the method of curing the subjects, etc., not technical



and medical problems concerning typhus itself.

A The workers in the laboratory of contagious diseases at Bethesda first served as the subjects and then some four hundred volunteers outside of the Research Institute served as subjects. These subjects were injected with the vaccine and the development of the entological responses were followed. Some of them were infected with a living virulent typhus virus to see if the vaccine protected against such an inoculation.

Q Do you have any information concerning the conditions under which prisoners in Federal prisons in the United States served as subjects in medical experimentation programs?

A Yes. As chairman of the Committee appointed by Governor Green of the State of Illinois to submit a report on the conditions under which prisoners may serve as subjects in medical experiments I investigated that and I have with me a statement which the prisoners were given when they were invited to volunteer and I have the agreement which they signed when they decided to volunteer. I can submit that if it is desired.

Q Could you outline for the Tribunal the method used in procuring these experimental subjects, first of all, what was the manner of selection?

A Well, a written statement was posted in the penitentiary in which the importance of the proposed medical investigation was outlined, in which the hazards were indicated, and in some instances without any promise of reward.

Q Do you happen to have that notice that was posted? Do you have a copy of that?

A Yes.

Q Is that too lengthy or could you read it to us?

A It is not very long. This is entitled "Statement to Prospective Volunteers."

"The study we are planning to carry on here and for which we have asked your cooperation is concerned with the testing of new anti-malarial compounds which are being developed by competent investigation for use by the Armed Forces of the United States. The purpose of the testing program is to ascertain whether the drugs are efficient and safe for human beings. The nature of the drugs we propose to use is such that we do not expect serious complications from their use. The toxicity of the drugs is unknown, however, as far as human beings are concerned no drugs will be used which on the basis of extensive animal tests show evidence of severe toxicity.

Persons volunteering to assist in this study will submit to the inoculation into the blood of salivary glands of mosquitoes infected with the so-called Chesson strain of malaria which is prevalent in the southwest Pacific area. While the danger to life from this strain of malaria is small there is a strong probability of relapse or recurrent malaria fever for a period up to several years after the infection. Drugs to prevent or treat the infection will be administered by mouth for varying periods and blood tests will be taken. A fee will be paid to each individual who is accepted and who completes the prescribed test. One-half of this fee will be payable within thirty days after the tests are started the other half will be payable after the completion of twelve months of observation."

I might say that the fee was \$100.00, \$50.00 at the start and \$50.00 at the termination.

Q Is that the entire notice that was published on the bulletin boards at the Penitentiary in Illinois?

A Yes.

Q Now what was the response to that?

A There were more volunteers than could be used.

Q Were any of these men approached personally or was this notice published in the bulletin board the only method used to reach the prisoners?

A No, none were approached personally.

Q How many subjects were used in these malarie experiments in the Stateville Penitentiary?

A The exact number I do not know but I know that in the entire program of malarie study eighty compounds were tested on human volunteers who were prisoners in the penitentiaries.

Q Now, in this connection do you know whether or not any statement was made concerning this by Governor Green of Illinois?

A Yes, I can read the statement.

Q Would you read the statement of Governor Green if you please?

A. "The State of Illinois has regarded these experiments, aimed toward a cure for malaria, as a definite challenge and a definite responsibility. When the project was begun at Stateville Prison, it was a military project. The war against the enemies of the United States was at its height. Malaria research was viewed as another means by which Illinois might help win the war. Now, while still a military project, it becomes a means by which Illinois may help in man's unceasing war against disease. We are proud of the manner in which the inmates of the prison volunteered to submit themselves to tests which required that they actually develop malaria, and then take new drugs in order to test these drugs' potency in the control of the disease. Many more hundreds have volunteered than have been called. Their only complaint has been 'I volunteered; why haven't I been called'."

Q. Do you have the agreement that was signed by the experimental subjects before being subjected to the experiments?

A. Yes.

Q. Could you, in substance, tell us what that agreement is or, if necessary, read some of the portions thereof?

A. One of the points that is made in the agreement is:

"I hereby assume all risks of such tests and, acting for myself, my heirs, personal representatives and assigns, do hereby release the University of Chicago...", which I might say were the sponsors for this project.

"I hereby assume all risks of such tests and, acting for myself, my heirs, personal representatives and assigns, do hereby release the University of Chicago, all technicians and assistants assisting in said work, the United States Government, the State of Illinois, the Director of the Department for Public Safety of the State of Illinois, the warden of the Illinois State Penitentiary, and all employees connected with the above institutions, from all liability, including claims and suits at law or in equity, for any injury or illness, fatal or otherwise, which may result from these tests. This is to certify that this application



is made voluntarily and under no duress."

Those are the essential points of the agreement which was signed by each prisoner volunteer who was accepted for the experiment.

Q. Did you ever hear tell just what the reactions were of the prisoner volunteers?

A. Yes, that was made a subject of a radio broadcast in the United States.

Q. Did the prisoners talk over the radio?

A. That's right.

Q. Do you know what they said over the radio?

A. I have the script of that broadcast and can read what some of them said.

Q. That won't be necessary, Doctor. Was the gist of their statements over the radio that they were volunteers?

A. The gist of their statements made over the radio was that they volunteered in order to help their buddies who were sick with malaria.

Q. Do you have any other circumstances to tell us about which surrounded these malaria experiments at the Stateville Penitentiary in Illinois?

A. No. I might say in the federal penitentiaries the conditions were very much the same, except now, since some prisoners have received some reduction in sentence, it is stated that the prisoner volunteers will receive a consideration of reduction in sentence as a part of the good time reduction in sentence for good conduct.

Q. Do you have information concerning any other experimental programs on human beings which were conducted in the United States or by representatives of the U.S. medical associations or societies or professions?

A. During the war subjects were obtained from the civilian public service agencies. These subjects were known as conscientious objectors. There were two types of conscientious or religious objectors. One type would not cooperate on any program of public service and hence were in-

prisoned. The other type of conscientious objectors would cooperate in public service, with the exception that they would have nothing to do with any part of the military effort. These latter conscientious objectors provided public service by serving as orderlies in state hospitals, by serving in forest fire prevention work and similar public service projects. Some of these conscientious objectors were invited to become subjects for medical experiments conducted in university laboratories. In inviting them, a letter was sent to the supervisor of a group of conscientious objectors, outlining the purpose of the medical investigation to be made, how it would be made, the possible hazards. If the conscientious objector volunteered, his transportation to the university would be paid, and while he was at the university, he was given \$15.00 a month for pocket money and his maintenance was provided also.

Q. Can you tell us, Dr. Ivy, whether or not you yourself ever experimented on conscientious objectors?

A. Yes, I experimented on two groups of conscientious objectors, one in a high altitude experiment and another in a vitamin deficiency experiment.

Q. In the high altitude experiment did the subjects volunteer as you have outlined?

A. Yes.

Q. Did you talk to each subject prior to using him in an experiment?

A. I talked to the subjects as a group right after they reported and had been subjected to a thorough physical examination, and I told them again the purpose of the experiment, its nature and the possible hazards. I also explained that, when any symptoms of a mental or physical disturbance became manifest, therapy would be instituted.

Q. Did any of them withdraw, at that time, after you had warned them yourself?

A. No.

Q. Did any of them ask to be relieved of the experiments during

the course of the experimental program?

A. No.

Q. Did any of them die in the course of your experiments?

A. No.

Q. Did you always remain with the patients or did one of your physician assistants remain with the patients while they were being subjected to the experiments?

A. They were under the constant supervision of either a physician or a medical scientist, depending upon the nature of the work.

Q. In your experiments on diet did you, at that time, also address the experimental subjects?

A. Yes.

Q. Did you warn them of the hazards of the experiments?

A. Yes.

Q. Did any of the experimental subjects become ill?

A. They developed some symptoms of vitamin E complex deficiency, yes, and the therapy was started as soon as these symptoms appeared.

Q. Did these experimental subjects, conscientious objectors, receive any pay?

A. None other than that which I have indicated, \$15.00 a month for pocket money.

Q. Was that their regular allowance for pocket money as a conscientious objector, or was that given to them merely because they submitted to these experiments?

A. No, that was the amount that was regularly allowed them.

Q. I see. In your opinion, Doctor, what should be the rules followed by a physician before experimenting on a human being? In other words, do you have a set of principles - medical ethics - concerning experimentation on human beings? If so, would you outline to the Tribunal what you deem to be the ethical manner in which experimentation on human beings should be conducted?

A. Having been appointed by the House of Delegates of the American

Medical Association, and since in my advisory capacity in these trials, I made a study of the conditions under which human beings have been used as medical subjects in cultured and civilized nations throughout the world. I formulated a set of ethical principles which I believe represented common practice in this regard. I submitted this set of ethical principles to the House of Delegates of the American Medical Association for consideration.

MR. HARDY: Anticipating an objection, Your Honor, I might add that this is the opinion of Dr. Ivy concerning what experimentation principles should be followed when working on human beings. I have asked each defendant that same question when they have taken the stand and they have given their opinion. I am now asking that of Dr. Ivy.

DR. FLEMING (Counsel for the defendant Krugowsky): Mr. President, it is my opinion that this is a question which only the Tribunal can decide. The opinion of an individual, of a man who is even a medical expert, is not, in any way, designed to further the trial or to deny the Tribunal the right to make its own decision. For this reason, I object to this question and ask, if possible, that it will be stricken from the record.

THE PRESIDENT: Objection will be overruled.

I will ask the witness the date of these experiments in the penitentiary in Illinois, or approximate date.

WITNESS: As I recall, they started about 1942 and they are still in progress.

THE PRESIDENT: Witness will answer the question propounded to him after the noon recess.

The Tribunal will now be in recess until 1:30 o'clock.

(A recess was taken until 1330 hours, 13 June 1947.)



AFTERNOON SESSION

(The hearing reconvened at 1330 hours, 13 June 1947.)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Counsel may proceed.

DR. FLEMING (Counsel for defendant Krugowsky): Mr. President, I request that the defendant Krugowsky, according to the agreement of the Tribunal that was announced this morning, be allowed to sit next to me during the session today, so that I can discuss with him the facts possibly discussed by the expert.

THE PRESIDENT: Very well, pursuant to request of Dr. Fleming, counsel for defendant Krugowsky, the defendant Krugowsky may be seated at the attorney's table beside his counsel for this afternoon session.

DR. ANDREW C. IVY - Resumed

DIRECT EXAMINATION (Continued)

BY MR. HARDY:

Q. Dr. Ivy, before taking up the problem of medical ethics, I wish to go back to the testimony concerning the yellow fever experiments by Dr. Walter Reed. Do you have there the publication "Yellow Fever", which is a compilation of various publications which were put out by the United States Government Printing Office in 1911?

A. Yes.

Q. Is that a true photostatic copy of the publication that you have before you?

A. It is a true photostat copy of those pages of the publication which I have used.

MR. HARDY: At this time, Your Honor, these publications Dr. Ivy has referred to, the prosecution desires to know if it may be marked as an exhibit and given a prosecution identification exhibit number, the purpose being that the prosecution anticipates and if the Tribunal rules favorably that the evidence concerning experiments in the U.S. and other countries is deemed to be admissible in evidence before this Tribunal that the prosecution will then be in a position to introduce these docu-

nents referred to today during rebuttal.

THE PRESIDENT: The documents may be marked with a prosecution number for identification, given numbers especially.

MR. HARDY: Will you kindly pass up that photostat of the publication "Yellow Fever", Dr. Ivy?

At this time, Your Honor, I do not propose to pass them over to the Tribunal and give them to the Secretary General, inasmuch as they have not been processed. The prosecution will hold them, giving them an exhibit number, and if necessary introduce them, if the Tribunal's ruling is favorable to the admission of such evidence. If it is unfavorable, we will not use them.

THE PRESIDENT: That will be satisfactory. However, I suggest that they may be available to defense counsel to examine in the office of the Secretary General in the meanwhile, if any of the defense counsel desire to examine them.

MR. HARDY: I don't know how we can possibly do that—

THE PRESIDENT: I understood you to say you would deposit these originals in the office of the Secretary General. Was that correct?

MR. HARDY: No, I asked if we could dispense with doing that so we would be in a position to process them.

THE PRESIDENT: They should be processed. That is right.

Q. In this report "Yellow Fever", Dr. Ivy, on the second page of the report, of the substance of the report, which is page 10 of the compilation, we note a paragraph which reads as follows:

"From time to time Spanish immigrants newly arrived were brought in directly from the immigrant station. A person not known to be immune was not allowed to leave camp, or if he did was forbidden to return."

Could that have been construed to be natives, as I referred earlier today in the examination when I asked you whether or not natives were used in the experiments?

A. It may have been, but it is not to be inferred that the Spanish

immigrants were submitted to experimental biting by an infect<sup>ed</sup>/mosquito. They were quarantined to be sure that they had not been bitten by a mosquito before coming to the camp. That was a control procedure. To my knowledge natives were not used as experimental subjects. That may be wrong. I may have overlooked something. One can't be perfect in searching the literature.

MR. SERVATIUS (Counsel for defendant Karl Brandt): Mr. President, may I perhaps suggest that this document which is submitted here should be made available to the defense after all, so that we can examine what the context is of these places which are being read now, so that we do not find out later on that we could have put questions to the witness which are essential.

MR. HARDY: Your Honor, in that event I request instructions. I am wondering whether or not at this time it will be necessary for the Tribunal to rule whether or not this evidence concerning experiments in other countries will be admissible or will be inadmissible, or am I too premature. If the ruling is favorable, it will necessitate processing, filing copies with defense counsel; if not favorable, that can all be avoided.

THE PRESIDENT: It is impossible to make such a ruling at this time. While some of the evidence may be admissible, other evidence in the pool would probably not be admissible. It would fall into different classes. Here is a government document published under the supervision of the United States Government. At the same time, in the general pool there are magazine articles, some of them from responsible magazines and some of them from rather irresponsible magazines, some by known authors and some by unknown authors, some by known authors with a good reputation and some by known authors whose reputation was not particularly good.

MR. HARDY: I can turn it over to defense counsel at this time and of course let them have the opportunity to study it, but I request that it be preserved and locked in a safe if he intends to keep it

over the recess and this evening.

THE PRESIDENT: I think it can be given to defense counsel now, but it should be returned to the prosecution before the close of the afternoon session. Of course the document will be available again to you tomorrow morning if counsel desires to look at it.

Q. Now, the experiment by Colonel Strong and Dr. Kurs on beri-beri on which you have testified and based your testimony on, a publication "Phillipine Journal of Science", Vol. 7, page 291, published in 1912, and also based on your personal conversations with the experimenters, I wish that you would pass up to me the publication on which you base your testimony, Doctor, so that I may mark it for identification.

MR. HARRY: The yellow fever publication, Your Honor, the yellow fever document will bear Prosecution Exhibit 511 for identification, the beri-beri document, which is an extract from the "Phillipine Journal of Science", Vol. 7, 1912, and which will bear Prosecution Exhibit 512 for identification.



THE PRESIDENT: The record will show the identification numbers.

BY MR. ALTON:

Q Dr. Ivy, is that extract from the "Philippine Journal" Volume 1, 1911 appear to be No. 2 from the original journal?

A Yes.

Q You certify that this is a true copy?

A Yes.

Q The publication concerning the plague experiments, will you kindly pass that up to me, Doctor. This publication will be marked Prosecution Exhibit 513 for identification, your Honor. Does this extract from the "Philippine Journal" of Science, Volume 7, dated 1906 pertaining to the plague experiments of Colonel Strong purport to be a true copy of the original?

A Yes.

Q From these reports concerning the beri-beri and plague experiments, is it possible to ascertain that deaths occurred in either of those experiments?

A In the plague experiments it is a page photostated in which it states that no injury of any of the subjects occurred.

Q Is that on page 133 of the Philippine Journal of this exhibit, Prosecution Exhibit 513 for identification, wherein it states, "Up to the present time 42 persons have been injected with this large dose 724 ASA-silent culture of the living bacillus and although the inoculation which I include in this report were all performed more than two months ago and the individuals treated have been under constant surveillance I have no accident to report."

A Yes.

Q That is in the plague experiments. In the beri-beri experiments, from your conversations were you able to ascertain whether or not any deaths occurred, that is your conversations with the experimentalists?

A I was told no deaths occurred.

Q Professor Ivy, would you kindly pass up the publication upon which you base your testimony concerning the experiment on trench fever. This will be marked Prosecution Exhibit 514 for identification. Dr. Ivy, does this extract pertaining to the experiments on trench fever made in 1917 purport to be a true photostatic copy of the material contained in the report of the Commission of the Medical Research Committee, American Red Cross, in the Oxford University Press?

A Yes.

Q Would you kindly pass up the report upon which you base your testimony concerning the pellagra experiments. Does this photostatic copy which has been marked Prosecution Exhibit 515 for identification purport to be a true photostatic copy of the material contained in the Archives for Internal Medicine, Volume 25, page 451, dated May 1920 concerning experimental pellagra in white male convicts?

A Yes.

Q Would you kindly pass up the material you have concerning the experiments first of all on the inmates of the Stateville Penitentiary in Illinois.

A I have the summary agreement, Dr. Hardy, of the Department of Justice, the Bureau of Prisons, that is for the Federal Prisons.

Q Thank you, I will refer to that in a moment, Doctor. Dr. Ivy, does this statement to prospective volunteers and the application for inclusion in study of new anti-malarial compounds purport to be a true copy of the statement to prospective volunteers and application which was submitted at the Stateville Penitentiary in Illinois prior to the execution of the malarial experiments therein?

A Yes.

Q This is marked Prosecution Exhibit 516 for identification, your Honor. Do you have any further material before you, Doctor, that I haven't referred to yet that you have been testifying to?

A I have a copy of the agreement which prisoners in the Federal Penitentiary sign when they volunteer for subjects in medical experiments.

Q Do you have any experience from your own knowledge of the subjects in Federal Penitentiaries, that is, do you know of any experiments wherein Federal inmates were used?

A Yes, they were used in the malarial studies in the same way the prisoners were used at Stateville.

Q What particular Federal penitentiaries did they draw their subjects from?

A One at Atlanta and another in Texas.

Q Will you kindly pass up that document, Professor Ivy. Does this photostatic copy entitled "Department of Justice, Bureau of Prisons", application for permission to participate in experiments" and marked Prosecution Exhibit 517 for identification, purport to be a true copy of the actual agreements which are signed by Federal inmates of penitentiaries in the United States?

A Yes.

Q Do you have any further material before you, Doctor.

A I have a certified letter from the Secretary and General Manager from the American Medical Association in which they state what the three basic requirements for the proper use of human subjects in medical experiments.

Q We cannot find in later. It isn't applicable to this section of the examination. Do you have any material on the experimental vaccinations for Mexican or chotic-typhus?

A Yes, I have a photostatic copy of two pages of an article in which human subjects were vaccinated against Mexican or chotic-typhus in which volunteers were used.

Q Would you kindly pass that up, Doctor. Does this extract from the Journal of Bacteriology, Volume 36, published in 1939 concerning an experiment on vaccinations of human beings against Mexican or chotic-

13 June 47-4-4-1D-14-4-Love (Int. Wartenburg)  
Court I, Case I

typings from Felix Viani Miller purport to be a true photostatic copy  
of the original?

A Yes.

Q This is marked Prosecution Exhibit 518 for identification, you  
Honor.



Q The statement which you read by Governor Green, was that published in any journal or is that merely a loose statement?

A That was a statement made over the radio by Governor Green.

Q Was that made in connection with the quotations of the prisoners, of volunteers?

A That is correct.

Q Is that made up into a script?

A Yes.

Q Are you able to certify that script as being a true presentation of the radio program?

A Yes, as of Thursday, January 3, 1946 over Station WGN.

Q Would you kindly pass up that script, Dr? Does this purport to be a true script of the broadcast over WGN, entitled "Plasma Research Report, dated Thursday, January 3, 1946 and" contain a statement by Governor Green of Illinois and statements from the prisoners of volunteers used in the course of the experiment?

A Yes.

Q It is marked for identification as Prosecution Exhibit 519. Now, Professor Ivy, before adjournment you were beginning to discuss medical ethics in the United States. I wish to inform you that we have had Professor Leibbrandt, many of the defendants and other defense and prosecution witnesses testify concerning medical ethics in general and in your report would you kindly outline for the Tribunal the procedures followed in the United States concerning the principles of ethics in experimentation on human beings?

A I will state three principles developing each one briefly. Principle No. 1 is the consent of the subject must be obtained; also subjects must have been volunteers in the absence of coercion. Before volunteering the subjects have to be informed of the hazards, if any. Small rewards in various forms have been provided as a rule.

Principle No. 2. The experiment to be performed must be so indicated and based on the results of animal experimentation and a knowledge of

the natural history of the disease under study that the anticipated results will justify the performance of the experiments. That is, the experiment must be such as to yield results of the kind of society unobtainable by other methods of study and must not be random and unnecessary in nature.

Principle 3. The experiment must be conducted only by scientifically qualified persons and so as to avoid all unnecessary physical and mental suffering and injury and so that on the basis of the results of previous adequate animal experimentation there is no a priori reason to believe that death or disabling injury would occur except in such experiments as those on Yellow Fever where the experimenters serve as subjects along with the non-scientific personnel.

This was the list of ethical considerations which I submitted as a representative of the House of Delegates of the American Medical Association to the House of Delegates in December. I received this letter from them. This is a report of the Reference Committee on Miscellaneous Business to the House of Delegates:

"The Reference Committee finds the experiments described in Dr. Ivy's report are opposed to the principles of medical ethics of the American Medical Association which have three basic requirements: No. 1, the voluntary consent of the individual on whom the experiment is to be performed must be obtained; No. 2, the danger of each experiment must be previously investigated by animal experimentation; and, No. 3, the experiment must be performed under proper medical protection and management."

Q Do you have any further statements to make concerning rules of medical ethics concerning experimentation on human beings?

A Well, I find that since making this report to the American Medical Association that a Decree of the Minister of Public Welfare of Germany in 1931 on the subject of "Regulations for Modern Therapy for the Performance of Scientific Experiments on Human Beings" contains all the principles which I have read. I have that decree in the form of a

micrographed document with me here.

Q And that purports to be a rule of medical ethics for the experimentation upon human beings drafted by the American Medical Association based on investigations by you and a report by you. Is that correct?

A The latter that I read gave the basic principles, the ethics for the use of human beings in medical experiments as approved by the American Medical Association. In addition to that, I pointed out that I have a micrographic copy of a circular letter from the Reich Minister of the Interior concerning regulations for medical therapy and the performance of scientific experiments on human beings which contains the ethical principles which have been approved by the American Medical Association and which were submitted by me to the House of Delegates of that association for consideration.

Q Well, do you have there also the principles and rules as set forth by the American Medical Association to be followed?

A Yes.

Q What was the basis on which the American Medical Association adopted these rules?

A I submitted to them a report of certain experiments which had been performed on human subjects along with my conclusions regarding the principles, what the principles of ethics should be for use of human beings as subjects in medical experiments, and asked the association to give me a statement regarding the principles of medical ethics and what the American Medical Association had to say regarding the use of human beings as subjects in medical experiments.

Q Could you kindly pass up to me that ruling of the principles put out by the American Medical Association? This, apparently, isn't what I am referring to, Doctor. Do you have a publication which is published by the American Medical Association entitled "Principles of Ethics Concerning Experimentation on Human Beings"?

A. Not with me here.

Q. Well, now, you have, first of all, a basic requirement for experimentation on human beings, being: "1. the voluntary consent of the individual upon whom the experiment is to be performed must be obtained."

A. Yes.

Q. "2. The danger of each experiment must be previously investigated by animal experimentation," and "3. the experiment must be performed under proper medical protection and arrangement."

Now, does that purport to be the principles upon which all physicians and scientists guide themselves before they resort to medical experimentation on human beings in the United States?

A. Yes, they represent the basic principles approved by the American Medical Association for the use of human beings as subjects in medical experiments.

JUDGE SEEVER: How do the principles which you have just enunciated comport with the principles of the medical profession over the civilized world generally?

A. They are identical, according to my information, and with that idea in mind I cited the principles which were mentioned in this circular letter from the Reich Minister of the Interior dated February 28, 1931 to indicate that the ethical principles for the use of human beings as subjects in medical experiments in Germany in 1931 were similar to those which I have enunciated and which have been approved by the House of Delegates of the American Medical Association.

BY MR. HARDY:

Q. Is it possible that in some field of scientific research that investigation by animal experimentation would be inadequate?

A. Will you repeat that question? I did not get it.

Q. Is it possible in some fields of medical research that experimentation or investigation on animals would be inadequate?



13 June 47-4-15-5-Prineau (Int. Vartenberg)  
Court No. 1

A Yes. The experiment on Typhoid Fever is a very good example.

Q How would investigate the danger of the experiment prior to resorting to the use of human beings?

A. The hazard would have to be determined by a careful study of the natural history of the disease.

Q. Does malaria also fall into that category?

A. We can use animals to some extent in malarial studies, canaries and ducks, for example, develop malaria, and in research designed to discover a better drug for treatment of malaria we can use Avian Malaria as a sort of screen method to detect which compounds might be employed with some assurance that might be effective in human malaria. In that way we decrease the random and unnecessary experimentation on man.

Q. To your knowledge have any experiments been conducted in the United States wherein these requirements which you set forth were not met?

A. Not to my knowledge.

MR. HARDY: Your Honor, I have no further questions concerning medical ethics to put to Dr. Ivy; however, I do have one question concerning the high altitude experiments which I wish to go back to at the conclusion of that complex, in high altitude, I will have completed my direct examination.

THE PRESIDENT: The Tribunal has no questions of the witness. Do I understand that you have completed your examination of the witness?

MR. HARDY: No, I have not; I have a further question to put to him, but I was going to leave the case of medical ethics.

THE PRESIDENT: We have no questions on that subject; you may proceed.

Q. Dr. Ivy, in medical science and research is the use of human subjects necessary?

A. Yes, in a number of instances.

Q. Is it frequently necessary and does it perform great good to humanity?

A. Yes, that is right.

Q. Do you have an opinion that the state, for instance, the United States of America, could assume the responsibility of a physician

to his patient or experimental subject or is that responsibility solely the moral responsibility of the physician or scientist?

A. I do not believe the state can assume the moral responsibility that a physician has for his patient or experimental subject.

DR. SLIEM: I object to this question in that it is a purely legal question that the Court has to answer.

DR. SAUTER (For the defendants Huff and Rosenberg): If I am not mistaken, a document was read this morning in which it says that the state assumes the responsibility. I believe that I am not mistaken in that. I also want to point out something else, gentlemen, in order to supplement what Dr. Seidl just said.

Here the question is always asked what the opinion of medical profession in America is. For us in this trial, in the evaluation of German defendants, that is not decisive, but in my opinion the question must be decisive what, for example, in 1942, when the altitude experiments were undertaken at Dachau, the attitude of the medical profession in Germany was. From my point of view as a defense counsel I do not object if the prosecution should ask Professor Ivy what the attitude or opinion of the medical profession in Germany was in 1942. If he can answer that question, all right, let him answer it, but we are not interested in finding out what the ethical attitude of the medical profession in the United States was, because a German physician who in Germany undertook experiments on Germans cannot, in my opinion, be judged exclusively according to an American medical opinion, which moreover is from the year 1945 and was coded in the year 1945 and 1946, was coded for the future use; it can have no retroactive force either.

THE PRESIDENT: The first objection imposed by Dr. Seidl might be pertinent if the question of legality was concerned, a legal responsibility; that would be a question for a court. The question of moral responsibility is a proper subject to inquire of the witness.

As to Dr. Sauter's objection, the opinion of the witness as to medical sentiment in America may be received. The counsel objection

goes to its weight rather than to admissibility. The witness could be asked if he is aware of the sentiment in America in 1942 and whether it is different from this of the present day or whether it does not differ. The witness may also be asked whether he is aware of the opinion as to medical ethics in other countries or throughout the civilized world. But the objections are both overruled.

Q. It is your opinion, then, that the state cannot assume the moral responsibility of a physician to his patient or experimental subject?

A. That is my opinion.

Q. What do you base your opinion on? What is the reason for that opinion?

A. I base that opinion on the principles of ethics and morals that are contained in the oath of Hippocrates. I think it should be obvious that a state cannot follow a physician around in his daily administration to see that the moral responsibility inherent therein are properly carried out. This moral responsibility that controls or should control the conduct of a physician should be inculcated into the minds of physicians just as moral responsibility of other sorts, and those principles are clearly depicted or enunciated in the oath of Hippocrates which every physician should be acquainted with.

Q. Is the oath of Hippocrates the Golden Rule in the United States and to your knowledge throughout the world?

A. According to my knowledge it represents the Golden Rule of the medical profession. It states how one doctor would like to be treated by another doctor in case he were ill. And in that way how a doctor should treat his patient or experimental subjects. He should treat them as though he were serving as a subject.

Q. Several of the defendants have pointed out in this case that the oath of Hippocrates is obsolete today. Do you follow that opinion?

A. I do not. The moral imperative of the oath of Hippocrates I believe is necessary for the survival of the scientific and technical philosophy of medicine.



Q. Going back to the high altitude experiments for the moment, Dr. Ivy, this morning I put the following question to you in that I asked you in view of the fact that Rosenberg says he reported the death of three aviation subjects to Ruff, in view of the findings of air embolism in some of the subjects killed in parachute descending tests in Rascher's report, and in view of the interest of Rascher in his report and of Ruff, Rosenberg, and Rascher in their report on the cause of mental disturbances, is it probably beyond a reasonable doubt, in your opinion, that Ruff, when he approved, read or wrote paragraph 2 on page 91 of the Document Book No. 2, which starts with the words "in spite of", did he have in mind Rascher's experiments air embolism? And you answered the question yes. Now, Justice Sebring asked you whether or not any conclusion could be drawn from the entire report written by Ruff, Rosenberg, and Rascher which indicates that the writers of the report had knowledge of experiments at Dachau to any extent, that is, the entire report. I believe that was the import of the question by Justice Sebring. In any event, is it possible to ascertain from the entire report written by Ruff, Rosenberg, and Rascher that they had knowledge of the work of Rascher as solicited in the other reports?

A. No, my testimony in answer to those two questions was not inconsistent. I said that in view of the circumstances and because of the similarity of the subject matter in paragraph 2—

Q. Page 91.

A Paragraph 2, page 91 - and the pertinent paragraphs in the Rascher report.

Q That is Document 220.

A It is impossible when Paragraph 2 on page 91 was written that the observations reported in the Rascher report were not in mind. But, at the same time I said there is nothing in this report by Ruff, Romberg, and Rascher which proves that they had in mind the observations in the Rascher report pertaining to the pressure drop sickness.

DR. SAUTER: Mr. President, I have to object to this question and I ask to have the question and the answer stricken from the record. The question was asked by the Prosecution regarding this document. I am of the opinion that anybody who is able to read and who is able to think logically can read a document for himself and who is asked to make a judgment about a document does not need the statement of anybody else in order to make a judgment about this document. Therefore, I am of the opinion that it is inadmissible that an expert is asked to give an expert opinion about a document which everyone of us can read and judge and that he is to tell us what he, from his personal point of view, thinks about this document.

MR. HARDY: Then I assume that defense counsel is objecting to the entire examination of Dr. Ivy concerning high altitude and the questions to Dr. Ivy by the Tribunal.

JUDGE SEBRING: Mr. Hardy, in order to clear up this matter perhaps the Tribunal had better again attempt to frame its question that it framed this morning.

Dr. Ivy, you said this morning in answer to a question put by the Tribunal that you had given thorough study to Prosecution Document no. WD-402, 5a herein at page 82 in Prosecution Document Book II which purports to be the report made by Ruff and Romberg concerning "experiments on rescue from high altitude". The purport of the question put by the Tribunal this morning was this: Can you state whether or not there is any scientific information contained in the Ruff-Romberg report

which could not have been gained by Ruff and Rosberg as the result of the experiments supposed to have been conducted by them on their own experimental subjects and within the framework of the experiments as outlined in the report?

A My answer was no, by which I mean that the Ruff, Rosberg, Rascher report as it stands could have been written if Rascher had not done his autopsy work on the subject in question.

BY MR. RASCHER:

Q In that connection, Doctor, may I ask you to refer to page 91 of Document Book II. This paragraph reads "In spite of the relatively large number of experiments, the actual cause of the severe mental disturbances and bodily failures attendant upon post-hypoxic twilight state remains something of a riddle." What do you determine that sentence to mean scientifically?

A Well, in that connection I believe that since Dr. Ruff and Dr. Rosberg knew that a subject had died at high altitude, that the subject had been autopsied, and bubbles found in the blood vessels, that they could not write this paragraph 2 on page 91 without that information coming to mind because the subject matter of this paragraph on 91 pertains to the same subject matter that is reported in the Rascher report.

Q Then it further states "It appeared often as though the phenomena of pressure drop sickness had combined with the results of severe oxygen lack." Well, now could that information have been written in this report without knowledge of the Rascher experiments?

A Yes, that could have been written in this report on the basis of knowledge of the previous literature.

Q Well, they state here - "It appeared often as though the phenomena of pressure drop sickness...." Well, now if it appeared often they must have been in a position to observe this pressure drop sickness, is that true?

sickness, is that true?

A Yes, and as a result of their experiences in aviation medicine, study of subjects at high altitude, they could have observed decompression sickness or pressure drop sickness.

Q Can you observe pressure drop sickness and determine that a person is suffering from pressure drop sickness without performing an autopsy or without seeing bubbles in the blood stream?

A Yes.

Q How can you do that, doctor?

A Well, you can determine whether they have the Bonis of the system which is evidenced by pain in the joints and inability to walk or stand or to move the joints normally. They could determine whether or not the patient had chokes and fits of apnoea which is another symptom of pressure drop sickness. They could determine whether or not the patient had a localised paralysis which is another symptom of pressure drop sickness and it is perfectly reasonable on the basis of the knowledge of the literature to assume that when a human being is subjected to the conditions that were used in this experiment that the symptoms manifested by the patient might be due to the combination of oxygen lack and of low pressure.

Q Then, in the first sentence of that paragraph - that sentence could have been written also without knowledge of the Pascher work? That is the sentence starting out with "In spite of....."

A Yes, because the expression "relatively large number of experiments" refers, I believe, to experiments performed by Ruff, Rawson, and Pascher.

Q I didn't understand your answer. I ask you, could that sentence have been written without knowledge of Pascher's work at Dachau?

A Yes.

Q Is it highly probable that the author of this report had knowledge of Pascher's work in writing that sentence?



A I don't see how since Rosenberg was present at the death of the subject and witnessed the autopsy in which the air bubbles in the blood vessels, and reported that to Dr. Ruff. How they could have prevented having knowledge of that when they wrote that paragraph - they had it on the basis of previous experience.

Q I have no further questions, your Honor.

DR. SAUNDERS: Mr. President, the last question and the last answer of the witness did not come through over the translation system. May I ask Mr. Hardy to repeat the last question and the witness should repeat the last answer he gave.

MR. HARDY: I asked, if there was a probability that the author of the report had the work of Rascher in mind when they wrote the paragraph on page 91 which starts out with words, "In spite of...."

WITNESS: My answer was Yes and I answered it yes because Rosenberg saw the patient die, attended the autopsy, saw the air bubbles in the blood vessels and reported that to Dr. Ruff and when they wrote this paragraph in the Ruff, Rosenberg, Rascher report they couldn't have done that, in my opinion, without recalling this tragic incident that happened under Rascher's experimentation at Dachau. I think that should be obvious.

MR. HARDY: No further questions, your Honor.

THE PRESIDENT: I understand counsel for Prosecution has concluded his examination in chief.

MR. SAUNDERS: Yes, your Honor.

THE PRESIDENT: Any questions to the witness by defense counsel?

MR. SAUNDERS: May it please your Honor, in the cross examination of this witness would it be possible for the defense counsel to keep the cross examination in sequence, that is, the subject matter in sequence. For instance, sea water, high altitude, etc., so that it may be followed easier in the record.

THE PRESIDENT: That would be all right. Does counsel desire to cross examine the witness on the sea water experiments?

DR. A. T. R. Mr. President, may I ask that the brief afternoon recess should be taken now so that the cross examination should begin only after the recess. I have a few questions to discuss with my colleagues about the form that the cross examination shall assume.

THE PRESIDENT: Very well, counsel. I would suggest that the Prosecution identification documents be gathered up and returned to the counsel for Prosecution.

The Tribunal will now be in recess.

THE MARSHAL: Persons in the courtroom will please find their seats.  
The Tribunal is again in session.

MR. HARDY: May it please the Tribunal, I request that the Tribunal ascertain how many defense counsel intend to cross examine Dr. Ivy so that the prosecution can, in turn, ascertain how long Dr. Ivy will remain on the stand. I have many other duties to take care of in the course of the next two or three days and I want to sort of gauge my work and if it will be possible to ascertain how long Dr. Ivy will be under cross examination it will be helpful to the prosecution.

THE PRESIDENT: Will defense counsel who desire to cross examine the witness, Dr. Ivy, please signify so by rising.

MR. HARDY: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. SAUTER (Counsel for the defendants Ruff and Rosenberg):

Q. Witness, you are an expert in the field of aviation medicine?

A. Yes.

Q. May I ask you what field within aviation medicine you have worked on specifically, because my clients, who are recognized specialists in this field, attach importance to ascertaining precisely what fields you have worked in particularly?

A. I have worked particularly in the field of decompression or pressure drop sickness, and I have also worked in the field of anoxia or exposure to altitude repeatedly at a level of 15,000 feet to ascertain if that has any effect in the causation of pilots' fatigue.

Q. At what time did you specifically concern yourself with the fields you have just named? Was that before the Second World War, during the Second World War, or was it earlier than that?

A. My interest in these fields of aviation medicine, including free fall which I did not mention, started in 1939.

Q. Regarding your specific work in this field, witness, you have also made publications. I believe you spoke of two publications. Did I understand you correctly, or were there more?

A. There were two in the field of decompression sickness. There was one publication in the field of the effects of repeated exposure to mild degrees of oxygen lack. My other work has not yet been published, but was submitted in the form of reports to the Committee on Aviation Medicine of the National Research Council of the United States.



Q. When were these two papers published of which you just told us that they were published; when, and where they printed by a publishing house. Did they appear in a journal or a periodical?

A. One appears in the Journal of Aviation Medicine either in September or October of 1946. The other appears in the Journal of the American Medical Association in either December or January of 1946 or 1947. The publication on the effect of repeated exposure to mild degrees of oxygen, lack of altitude appears in the quarterly bulletin of Northwest A University Medical School and part of the work, insofar as its effect on the elimination of the basis in the urine is concerned, appeared in the Journal of Biological Chemistry around 1944 or 1945, I am not sure of that date.

Q. Therefore, witness, you had thus made no publication in the field of aviation medicine before the papers of which you just gave the dates of publication?

A. The question is not clear.

Q. You just gave us the titles of the publications you have published and when; now I asked whether before the dates you just gave you did not have any publications in the field of aviation medicine?

A. No, my first research started in 1939.

Q. You yourself have carried out experiments too; is that not so?

A. Yes.

Q. With human experimental subjects, of course?

A. Yes and on myself.

Q. And with a low pressure chamber?

A. Yes.

Q. Were these frequent experiments or were they experiments in which you yourself took part only infrequent in number?

A. The experiments in which I took part were infrequent in number compared to the total number of experiments which I performed.

Q. Did you take part in these experiments as the director of the experiments, as the person responsible or were you usually the experimental

subject yourself?

A. I served in both capacities. For example, I have frequently gone to the altitude of 40,000 ft. to study the symptoms of dens with an intermediate pressure device, which we produced in our laboratory. I have been to 47,500 ft. on three or four occasions, on one occasion at 52,000 ft. for half an hour. I have frequently been to 18,000 ft. without supplemental oxygen in order to study the effect of the degree of oxygen lack present there for my ability to perform psycho-motor tests.

Q. Can you tell us approximately during what year you began these experiments of your own?

A. In 1939.

Q. 1939; did you at this time carry out explosive decompression experiments too? Witness, one moment please, the English for that is "explosive decompression." That is thus the experiment in which one ascends slowly to a certain height, let us say 8,000 meters and then all at once suddenly one is brought up to a height of 15,000 meters; that is, first slowly up to 8,000 and then suddenly to, let us say, 15,000 — that is what I understand under the term "explosive decompression" experiment, and my question is: whether you also carried out such experiments and if so when and to what extent?

A. I carried out over one hundred experiments on explosive decompression in various laboratories on animals, the rabbit, the dog, the pig and the monkey. I did not serve as a subject myself in experiments on explosive decompression, but a student who was trained with me in physiology, Dr. J. C. Smith did the first experiments on explosive decompression in which human being subjects were used at Wright Field. I am familiar with the work which Dr. Hitchcock did on this subject at Ohio State University in which he studied some one hundred students under conditions of explosive decompression.

Q. To what altitude, witness; to what maximum altitude did you carry your own explosive decompression experiments?

A. In trials it was up to 30,000 ft., in the case of human subjects the maximum was 47,500 with pressure breathing equipment.

C. This altitude you reached in your own experiments. Now, Doctor, it would interest me to know to what maximum altitude have any experiments in explosive decompression been carried in America; what do you know about this maximum altitude?

A. I believe that 47,500 or slightly above is the maximum.

C. Witness, do you know the German Physiologist Dr. Rein; Professor Rein, do you know his name; R-e-i-n from Goettingen?

A. Yes.

C. At the moment he is the ordinarius for Physiology at Goettingen, he is a rector at the University and a member of the Scientific Advisory Committee for the British zone. On the basis of your own knowledge; do you consider Professor Rein an authoritative scientist in the field of physiology and aviation medicine?

A. I consider him an authoritative physiologist, I am not acquainted with his work in the field of aviation medicine.

C. Mr. President, I previously put in evidence -- I want to recall that now -- an expert opinion from this Dr. Rein regarding Dr. Huff in Document Book Huff Document No. 5, Exhibit 3. This expert testimony is from Professor Rein.

In your own experiments, witness, you also used conscientious objectors, is that not so? Did I understand you correctly?

A. Yes, in some of the experiments.

C. Will you tell us why you, specifically happened to use conscientious objectors, were they particularly well adapted for these experiments; or what was the reason for you in conducting experiments to use especially conscientious objectors?

A. Yes; it was their duty, their volunteer duty to render public service. They had nothing else to do but to render public service. In the experiments in which we used the conscientious objectors, they could devote their full attention to the experiments. Many of the

subjects, which I have used, have been medical students or dental students, who besides serving as subjects had to attend their studies in schools. In the experiments we did on the conscientious objectors, they could not attend school at the same time and carry on or perform all the tests they were supposed to perform. For example, we used a group of conscientious objectors for repeated exposure to an altitude of 18,000 feet without the administration of supplemental oxygen. These tests involved the following of a strict diet, they involved the performance of work tests and psycho-motor tests, which required several hours every day to perform. Another group of conscientious objectors that I used were used for vitamin studies in relation to fatigue.

These conscientious objectors had to do a great deal of carefully measured work during the day as well as to perform psycho-motor tests; i.e., medical students or dental students could not be used. We had to have subjects who could spend their full time in the experiments.



JUDGE SEBRING: Dr. Sauter, at this point I should like to ask a question, if I may.

BY JUDGE SEBRING:

Q. Dr. Ivy, do you know whether or not American citizens who were conscientious objectors were drafted into the American military service during World War II.

A. No. They were drafted into this Civilian Public Service Corps and, as I indicated, there were two types of conscientious objectors: one type that did not cooperate in any way - they were imprisoned - and there was another type that were willing to perform public service as long as it was not in the nature of military duty.

Q. And what group is it that you say you used for your experiments?

A. The latter group.

Q. Do you know the nature of the oath, if any, that they took when they were inducted into this special service?

A. No, I do not.

Q. Do you know what their general physical qualifications were as compared to the physical qualifications of the man who was inducted into the military service of the United States?

A. Well, some of them were excellent physical specimens.

Q. What I mean to say is this. Was there a physical qualification scale set up for them in regard to age brackets and physical qualifications just as there was for the men who were inducted into military service?

A. I presume so because they would be drafted, and they would have to report that they were conscientious objectors.

Q. Then, so far as you knew, they were drafted; they had to register their names, numbers, residence, and so forth and were drafted just as all other American citizens within certain age brackets were drafted?

A. Yes.

Q. And then when it came time for selections for induction into

the service they registered the fact that they were conscientious objectors and then were placed in a special organization for public service if they would agree to do public service or, if they would agree to do nothing, were placed in prison.

A. That is according to my information.

JUDGE SERRING: Thank you.

BY DR. SAUTER:

Q. Witness, from the answers that you have given so far, I am still not clear in my mind precisely why you hit upon conscientious objectors in particular as the experimental subjects. You said there were two groups of them: some were in prison and some had to perform public service. From the latter group you took your experimental subjects, but please give me a clear answer to the question: Why did you specifically use such conscientious objectors for your altitude experiments?

A. They could devote full time to the experimental requirements. They did not have to do any other work as was the case of medical students or dental students, the only other type of subjects that I had available to me.

Q. Doctor, these persons were obliged to perform public service. If these conscientious objectors had not been there or if they had been used for public service, then you wouldn't have had any experimental subjects either. There must be a specific reason why you specifically used conscientious objectors and I ask you, please, to tell me that reason.

A. Well, we couldn't have done the experiments unless the conscientious objectors had been available. That is the answer to your question.

Q. Could you not have used any prisoners, even conscientious objectors who refused to do public service and, therefore, were in prison without doing any work? Could you not have used them?

A. Well, that would have meant that I and my assistants would have to go to the prison which was quite a distance away. The conscientious objectors could come to us at the university where they could live in the

university dormitory or in the university hospital.

Q. Doctor, if your experiments were really important - perhaps important in view of the state of war - then it is difficult to understand why the experiments could not have been carried out in a prison, let us say. Other experiments have been carried out in prisons to a large extent and in another context, Doctor, you told us that you simply had to get in touch with the prisoners; you simply wrote them a letter or you put up a notice on the bulletin board and then, to a certain extent, you have prisoners available. Can you give me no other information as to why you used specifically and only conscientious objectors?

A. No, if it had been convenient and necessary for me to use prisoners, I believe that we could have gotten prisoner volunteers for this work.

Q. Witness, were you ever in a penitentiary as a visitor?

A. Yes.

Q. Did you see there how the criminals condemned to death were housed?

A. Yes.

Q. Are they completely at liberty there or are the criminals condemned to death locked up in their cells?

A. They were locked up in their cells.

Q. Now, can you please tell us how a criminal condemned to death is to see the notice that you would put on the bulletin board? You told us today that it was very simple - you simply put a notice on the bulletin board - and for hours I have now been trying to figure out how a criminal condemned to death, who is locked up in his cell, is going to see that notice on the bulletin board.

A. While these prisoners are taken out for their meals, they can pass by a bulletin board or a piece of paper with the statement on it which I read can be placed in their cells for reading or, as a large group in the dining room, the statement can be read to them.

Q. Are criminals condemned to death together at meals in America?

So far as I know, there too the criminal condemned to death is given his food through an opening in the cell door; he cannot eat in a common mess hall.

A. Yes, but you must recall that I did not specify that the criminals which were used for malaria experiments were prisoners condemned to death; neither did I specify that if I were to go to a penitentiary to see if I could get volunteers for a nutrition experiment that I should select prisoners condemned to death.

Q. If you are speaking here of condemned criminals as experimental subjects, are you speaking of criminals condemned to death or just of criminals who have just received some sentence or other.

A. I have not used prisoners or criminals condemned to death. You have been using that statement. I have used prisoners.

Q. You spoke only of prisoners then?

A. That is correct.

Q. Are those prisoners in pre-trial imprisonment who have not yet been put on trial or are those prisoners who have already received some sentence?

A. Prisoners who have already received some sentence.

Q. In other words, prisoners who have been condemned or sentenced?

A. But not necessarily to death.

Q. Yes, other sentences, aside from the death sentence, included.

Did you as a scientist interest yourself in the question of why a person was sentenced, for what crimes he was sentenced?

A. No, I did not.

Q. Did you at least concern yourself with the question whether the man was condemned, was sentenced by a regular court or a court martial or an extraordinary court?

A. None of these prisoners would have been sentenced by a court martial; they would have been sentenced by an ordinary civilian court.

Q. How do you know? Did you see the personal files of these prisoners or did you see the opinions and sentences on the basis of which



the prisoner had been incarcerated?

A. Only on the basis of the type of prisoner that would be incarcerated in a certain penitentiary.

Q. How do you, as a doctor, know exactly what sort of prisoner is incarcerated in this penitentiary and what sort of prisoner is incarcerated in another prison? How do you know that?

A. That's a matter of common knowledge to one who reads the newspapers, the press, who is generally informed on such matters.

A In a Federal penitentiary then you might have prisoners who have been incarcerated because of courts-martial?

Q Are inmates of Federal penitentiaries used for experiments too, as far as you know?

A Yes, they may be.

Q In other words, political prisoners too, that is, prisoners who were condemned by a court-martial or by another court?

A We have no political prisoners in the United States.

Q Are not prisoners condemned for high treason or treason and the like. Those are political crimes.

A Not to my knowledge.

Q On conspiring with the enemy during the war; that such cases have not only arisen but they have also been punished, and you must know that from reading your newspaper, Professor; those are political prisoners. Do you not have those in America?

A Not to my knowledge.

Q Doctor, if I understood you correctly, you stated this morning that a medical experiment with fatal consequences is either to be designated either as an execution or as a murder; is that what you said?

A I did not say that.

Q What did you say then?

A It was more or less as I quoted it, as I remember, I said under the circumstances which surrounded the first death in high altitude experiments at Dachau, where Dr. Rosenberg is alleged to have witnessed, Dr. Rascher kill the subject; that the death could be viewed only as an execution or as a murder; and if the subject were a volunteer, then his death could not be viewed as an execution.

Q Witness, in your opinion, is there a difference whether the experiments are to be traced back to the initiative of the experimenter himself, or whether they are ordered by some authoritative office of the State which also assumes the responsibility for them?

A Yes, there is a difference, but that difference does not pertain, in my opinion, to the moral responsibilities of the investigator toward his experimental subject.

Q That, I cannot understand, Doctor. I can imagine that the State gives an experimenter the order, particularly during war time, to carry out certain experiments, and that in peace time, on his own initiative, the researcher would not carry out such experiments unless he was ordered to by the State. You must recognize this difference yourself.

A That does not carry over to the moral responsibility of the individual to his experimental subject. I do not believe that the State can assume the responsibility of ordering a scientist to kill people in order to obtain knowledge.

Q Witness, that is not the question. I am not interested in whether the State can order some one to murder; I am interested in the question, whether, in your opinion, the State can order, let us say dangerous experiments, experiments in which perhaps fatalities may occur. In America, too, deaths occurred several times in experiments; what is your view on this?

A The State, so far as I know, in the United States of America has never ordered scientists to perform any experiment where death is likely to occur.

Q Doctor, I did not say where death was probable, I said where death is possible, and I ask you to answer the question I put to you. If deaths are probable, then you are correct, then it is murder. If deaths are possible, then I want to know what you say to that. And, let me remind you, Doctor, that even in the American Airforce deaths did occur; in other words death was possible?

A Yes, I agree that it is possible for deaths to occur accidentally in experiments which are hazardous. As I said in my testimony under such conditions when they do occur, their cause is investigated very thoroughly as well as the circumstances surrounding the death.

Q I should like now, Doctor, to draw the inevitable conclusions from your answer: If a doctor undertakes an experiment and another scientist watches this experiment, merely as a spectator, and he sees that the experimenter is making an error, or that the experimenter is carrying the experiment so far that there is a possibility - not probability - the possibility of death. In such a case do you believe that the one doctor is under obligation to prevent the first doctor by force from carrying out his experiment?

A I do.

Q Forceably. I am not asking you whether he has the moral obligation to advise the other doctor to stop, to draw his attention to this or that. I am asking you whether he has the legal obligation to hinder him from his experiment by force?

A I know nothing about the legal obligations.

Q Oh, about that, you know nothing, Doctor, in the course of the day you stated that in America a compilation was published regarding the prerequisite under which experiments on human beings may be carried out. You know what I am speaking of, do you not?

A No.

Q You told us that a committee, I believe or an association had made a compilation regarding the ethics of medical experiments on human beings. First of all the question of volunteers; second, animal experiments; third, the hazardiousness. Can you recall now what I am referring to?

A Yes.

Q That was in December 1946, I believe.

A Yes, I remember.

Q Such instructions for doctors, or such a compilation of medical norms did that not exist before December 1946, in America then?

A You apparently did not get the clear understanding of what I said. In that regard, I said that I happened to be chairman of a committee appointed by Governor Greene of the State of Illinois to con-



sider the ethical conditions under which prisoners in the state penitentiary may be used as subjects of medical experiments. This question has come up because those prisoners who served as subjects in the malaria experiments have come up for a consideration of reduction of sentence to be so large that if a prisoner when asked or invited to volunteer would say, no, he would be saying no under duress, or he would be penalizing himself if he said no and did not get a large reduction in sentence. In other words, a reduction in sentence as a reward for serving as a subject in a medical experiment should not be excessive. I also said because I was a representative of the Board of Trustees of the American Medical Association, I submitted to them some ethical principles and asked them to take action regarding, or to make a statement regarding the ethical principles of the American Medical Association in regard to the question of human beings as subjects in medical experiments on the basis of their principles of medical ethics. And, they took action, and I gave the three principles in my testimony this morning. As a matter of fact, I read a letter from the Secretary of the American Medical Association.

Q. This was December 1946?

A. Yes.

Q. Did that take place in consideration of this trial?

A. Well, that took place as a result of my relations to the trial, yes.

Q. Before December of 1946 were such instructions in printed form in existence in America?

A. No. They were understood only as a matter of common practice.

Q. But you said that in Germany there was some decree from the year, 1931, I believe, which was issued by the Reichminister of the Interior?

A. That is right.

Q. Have you read it?

A. Yes.

Q. To what experiments or to what medical actions does this decree refer?

A. It refers to a decree of the Ministry of Public Welfare regarding the carrying out of scientific experiments on human beings or concerning regulations for modern therapy and the performance of scientific experiments on human beings.

Q. You didn't quote that in full, witness, for it refers not to experiments of all sorts but only to experiments on patients in hospitals. In other words, it refers to experiments on persons who were sick in bed in a hospital. Is that not so?

A. I shall read the paragraph below the title: "The Reich Health Council has emphasized the necessity of taking measures to insure that all doctors are acquainted with the following regulations and has, therefore, unanimously agreed that all doctors working in institutions for private or for medical welfare must sign a certificate on entry binding them to these regulations."

Q. From which it can be seen, doctor, that this decree applies only to clinics and hospitals. That is what it says there.

A. I am no 7, however, states that "medical ethics rejects utilization of social distress in the performance of new therapy".

Q. The exploitation of the poor, you will admit, and of those who occupy a socially weak position for medical experiments. That's why the decree was issued by the Department of Public Welfare. Do you agree with me in that?

A. Yes, but I see no reason why it should be restricted to that extent because medical ethics have general application and are not to be confined to a small restricted group of persons.

Q. Doctor, the reason is obvious. The poor person is not to be used for an experiment simply because he is promised, let us say, 1000 Marks, and a rich man doesn't have to carry out experiments. That is the reason. Well now, witness, something else about this decree you just read. I assume that you have concerned yourself pretty closely with how this decree came to be passed because you have it with you and because you referred to it in your direct examination. Do you know that this decree you quoted from never became a law, that this was nothing but a draft and remained merely a draft?

A. Well, I do not believe principles of medical ethics should necessarily have to become a law in order for them to be followed out for the good of medical science and medicine in general.

Q. Now, let me ask you something else, doctor. Give me the reason why in America sentenced persons are used for experiments at all. Give me the inner reason for this, not only in America but also in other countries, why don't you take free persons for experiments?

A. Well, in part it is for the same reason that we used conscientious objectors. Conscientious objectors had nothing else to do except to render public service. Prisoners in a penitentiary can give their full time or full attention to the experiments, and of course,

they are subject to strict control.

Q. A person who is, for example, to be subjected to a plague experiment, must he really devote all his attention to this plague experiment, for the experiment to succeed? Is that your opinion, as an expert, Professor?

A. As a doctor has other things to do, so does a medical student or a dental student. If they happen to become mildly incapacitated, having some feeling of sickness, they will not be able to perform their other duties whereas if a prisoner or someone who has nothing else to do becomes somewhat sick nothing is interfered with.

Q. Do you consider the fact that a person must go through a plague experiment and then for a long time must count on being a victim of plague, Professor, do you really think that this can be characterized as a slight indisposition?

A. Well those patients of Strong's were not given the plague. They were given an injection of killed or attenuated plague organisms so that they would run no temperature, or only a slight temperature - 100 degrees Fahrenheit or so. They were not sick for a long time.

Q. Professor, Colonel Strong, when you have just quoted tells us in the Philippine Medical Journal, which I have put in evidence in connection with Blane and Rose, describes his plague experiments. You know from that, because you have read it, that he worked with living plague bacilli.

A. Yes, but they were attenuated.

Q. They were living plague bacilli and a uthor Strong himself wondered why there had been no fatalities. Is that so?

A. No, he did not wonder. He said they did not have any reason to anticipate any fatalities because these organisms did not cause illness in guinea pigs. That is plainly evident in the photostatic copies which were submitted in evidence.

Q. The photostat that you submit to us, professor, contains a  
9172



little was excerpt from all the extensive material that we have submitted. Witness, when reading Strong's paper on those plague experiments did it not strike you, too, that Strong carried out those experiments on 900 prisoners condemned to death all of whom volunteered?

A. No, I am not acquainted with that. I have not seen those records.

Q. But it says so in the report. 900 persons condemned to death in the city of Manila— 900 volunteers.

A. I have not seen that report.

Q. We racked our brain as to how it was possible that there were 900 persons condemned to death in such a small city as Manila, how come there could be so many volunteers. But, now something else in this context. In many regions where these experiments were carried out, the Strong experiments in the Philippines and in other areas such as America, there are unemployed people who are only too happy to earn something. Let us say, you said the people received \$100 in reward, and probably they received free food, and extra cigarettes and cigars. Why were unemployed people not used? Why did you use conscientious objectors, why people under sentence, even people condemned by federal courts. Can you give me a satisfactory answer to that question, witness?

A. To my knowledge there were no unemployed people in the United States during the War.

Q. And before the War?

A. There were unemployed people in the United States before the War during the Depression but experiments on malaria on a large scale were not conducted then. Pharmaceutical chemists of the country had not been organized to synthesize some 80,000 compounds for testing of effectiveness in the treatment of malaria.

Q.- Doctor, didn't it occur to you just in America, that with your splendid radio network, you could readily have received volunteers for your experiments by advertising for them by air, and, if this did occur to you, why didn't you do it?

A.- That obviously is impractical to collect people from all over the country and to bring them to one point for purposes of an experiment.

Q.- I am not requiring that people should be collected from all over the country; but America has such large cities that you could find thirty, forty or fifty volunteers in one city alone. Now, why was that not done?

A.- Well, sometimes that is done.

Q.- But you didn't do it. You used conscientious objectors.

A.- Yes, that's right, because the conscientious objectors were available at that time and we did not have unemployed to use.

Q.- There were unemployed people in prisons - thousands of them.

A.- Yes, we used the unemployed in prisons, and also the conscientious objectors.

MR. McHANEY: If the Tribunal please, personally I think the point being pursued by Dr. Sauter has been covered in exhaustive detail. He has been repeatedly asked the same things, the same question, and I also object to his arguing with the witness. If he restricts his questions and puts his questions shortly and precisely, I am sure he will get a short answer, but we usually get a question, plus four or five sentences of argument.

THE PRESIDENT: Counsel should avoid asking argumentative questions. The subject has been pretty well covered; but counsel may proceed.

BY DR. SAUTER:

Q.- I shall turn then to another theme, although I do remember cases where individual questions were asked by the prosecution and were kept

on the floor for two or three times as long as this question of mine which the witness has still not answered.

Witness, you told us this morning that in the case of these experiments in which Ruff, Rosenberg and Rascher were involved, - the last being dead -, you said that Ruff bore the greatest responsibility, then came Rosenberg, and finally, Rascher. Did I understand you correctly, or did you mean something different?

A.- No, that is the order of seniority, gave, on the basis of scientific experience.

Q.- Before you expressed this opinion, Doctor, did you make certain of the role and what authorities Dr. Rascher had in the Dachau concentration camp, and did you take that into consideration the special circumstances under which Rascher lived there?

A.- I believe so. I read the record and the documents regarding that point.

Q.- What I am referring to, Doctor, is not in the record or in the reports. What do you know about Rascher's position in Dachau and about his relations with the Reichsfuehrer SS Himmler who was in charge of all concentration camps? Do you know about these relations?

A.- I am only familiar with that which I have read in the record and in the documents.

Q.- In what records? You mean, the record of the trial?

A.- The record of the trial.

Q.- The record of this trial, you mean?

A.- Yes, in the record of this trial.

Q.- And in the reports?

A.- And the documents.

Q.- Do you know from this record who, at the time when the experiments in Dachau began, Dr. Rascher was subordinate to officially?

A.- In the early part, he was scientifically subordinate, according to my information, to Dr. Walts.

Court No. 1

Q.- What do you mean, at the beginning? When?

A.- That is, in December and January, February of the time of the experiment or of the year of the experiment.

Q.- Why do you still embrace the point of view that Dr. Ruff was responsible for Rascher since Rascher who was subordinate to no one?

A.- I said that, in so far as scientific responsibility is concerned, Ruff was senior and Rasberg was second and Rascher was third.

Q.- That's what you said. But I want to know your reason for saying it.

A.- Because of their experience in scientific work in aviation medicine.

Q.- How have you figured out how much experience Stabsarzt of the Luftwaffe Dr. Rascher had? Rascher was a Stabsarzt of the Luftwaffe and Ruff was a civilian. How do you know that Rascher knew much less about the field of aviation medicine in which he was working than Ruff did?

A.- I know that Dr. Ruff has been working in the field of aviation medicine for some time and has done important work in that field, and I learned from reading the record that Dr. Rasberg had been his assistant for several years, and no one had ever heard of the work that Rascher had done in experimental work in aviation medicine, and, from the record, he had no training in experimental work in aviation medicine that was anywhere equal to that of Dr. Ruff and R. Rasberg.

Q.- You're speaking of the scientific responsibility. We have heard today of the legal responsibility, the moral responsibility, and now we are talking about the scientific responsibility. Do you base this description of yours only on the fact that this concluding report of July, 1942, was also signed by Ruff as chief of his institute or do you reason that Dr. Ruff was present at the experiments in Andorn and continuously collaborated in the experiments there? What do you reason?

A.- I assume that Dr. Ruff signed the report in his capacity as head of the institute and as a scientific collaborator, but not as a



Court No. 1

collaborator who took part directly in the experiments at Dachau.

Q.- Did you take into consideration, witness, the fact that Dr. Ruff has stated, under oath, and has not been contradicted, that throughout the whole experiments he was only present at Dachau for one single day in order to assure himself that the experiments were being carried out in an orderly fashion and to check on this?

A.- Yes.

Q.- Then, please tell me, if you consider Dr. Ruff responsible, how could Dr. Ruff, who was in Berlin, in your opinion, prevent culpable acts in Dachau of which he knew nothing? You just said that he was responsible; that means primarily responsible?

A.- I believe he was responsible because he was the senior man in this group of investigators.

Q.- Doctor, if you are here in Muenberg and your assistant, with whom last month you discussed some experiments and other, and who is carrying out these experiments in America, commits a crime while doing so, do you hold yourself to be responsible if you are here in Muenberg and can't prevent the crime? Please, are you the responsible person or not?

A.- If he is associated with me in some experiment that he is conducting I believe it is my responsibility to return immediately to my laboratory to study the truth of the report and the circumstances surrounding it, and then have that carefully investigated. At least, my responsibility extends that far.

Q.- Your responsibility consists of this, that if you find out about abuses or offenses you should return to America, investigate the case and draw the necessary conclusions? In that you say is your responsibility. Do I understand you correctly?

A.- Yes.

13 June-A-FL-24-5-DRS (at. Brown)

Court No. 1

DR. SAUTER: Mr. President, in that case I have no further questions.

I should like you to permit the defendant Dr. Ruff to ask a few medical questions of the witness which he can settle more expeditiously and expediently than myself.

THE PRESIDENT: The defendant may propound medical questions to the witness.

BY DR. RUFF:

Q. Dr. Ivy, you reported yesterday and also this morning something about some fatalities that had occurred in American aviation research. Now, I should like to ask you that aside from these deaths, regarding which you have already testified to here, do you know of any others in addition to the death of the major who had a fatal accident when parachuting from a great height and the five or six deaths that occurred during training?

A. I know of no other deaths.

Q. Don't you know of the one death that took place during the course of the centrifugal experiment in which the experimental subject was thrown down by the centrifugal machine and thus was killed?

A. I am not familiar with that.

Q. You are not familiar with that. Then do you know about the two cases of death that Professor Alexander, the expert for the prosecution, told my counsel, Dr. Sauter, about? These were two deaths in a low pressure chamber ascent in which experimental subjects in different experiments, of course, died because allegedly an oxygen reduction valve became iced over and for this reason the experimental subjects received no oxygen. Do you know of those two deaths?

A. Was that in the course of experimental work or routine indoctrination? Those two deaths may have been included in the five or six deaths to which I referred.

Q. I don't believe so. I am about to turn to the six fatalities that occurred during indoctrination. The case was described by the medical experts, by the prosecution expert, and it was said that of course there was a very precise investigation into this matter but that finally further investigation was pushed because it was discovered that this valve had been frozen over. Would you consider such a freezing of the valve with the consequent death of the experimental subject

at a height of say 12,000 meters - would you consider that an extenuation for the observing physician or sergeant?

A. I do not understand what is meant by the expression "extenuation for the attending physician or sergeant". The meaning of "extenuation" is not clear.

Q. Let me express myself differently. If such a valve fails, would that constitute for you an act of providence that led to this accident and a reason for declaring that the sergeant in question was morally and legally innocent of any crime?

A. I should say that was a mechanical failure and not a human failure.

Q. Dr. Ivy, let me remind you that from the moment when the supply of oxygen is interrupted until death occurs at a height of 12,000 meters there is a rather long lapse of time. How long this time is neither of us knows probably, but at any rate it is a considerable period of time. During this time in the first place the subject becomes altitude sick, he has cramps, he falls unconscious, etc. This lapse of time should be long enough for the crew operating the low pressure chamber to bring the subject back to a safe altitude again. Is that not so?

A. Yes, those presumptions are reasonable. I can't say that they are accurate because I do not know the exact circumstances surrounding those alleged deaths.

Q. Then let me turn to the next fatality.

THE PRESIDENT: I am going to ask the witness if he finished his answer to the preceding question. Did you finish your answer?

THE WITNESS: I did but I don't know whether it got through to the recorders.

THE PRESIDENT: I think it did.

BY DE. RUFF:

Q. Dr. Ivy, I come to the next fatality which occurred within the framework of aviation medicine within America. In those five or six cases that are alleged to have taken place during training indoctrination



was your documentation for which you have said regarding them - what papers are you referring to - were any papers on these deaths published?

A. I believe there was a report, mimeograph in nature, that was released. I am not acquainted with any publication of that data in a scientific journal. I have heard the matter discussed on two occasions in meetings of sub-committees of the Committee on Aviation Medicine of the National Research Council.

Q. Perhaps I can be of assistance to you and tell you the publication. At least, I think it is that we are talking about the same cases. The title is "Collapse at High Altitudes", written by Mashland, and appeared in the Air Surgeon, November 1944, on page 3. However, you did not see the paper in this periodical?

A. Not in that periodical.

Q. Now, let me put a few cases from this to you and ask you whether we are talking about the same cases. The first case did not happen in the low pressure chamber but in a medical experiment in an aeroplane. The director of the experiment had the subjects carry out gymnastic exercises in the plane at 35,000 feet. Following this exercise bends occurred; there was a collapse; when they returned to earth, there were severe headaches and subsequent death. Is this one of the cases you are also referring when we talk about these five or six fatalities?

A. I am quite sure that we are referring to the same report, except I believe I saw it in mimeographed form and not in the publication "The Air Surgeon".

Q. Then another collapse is described not in a training flight but a high altitude flight for medical purposes which had the same outcome as the first; then the third case is an ascent in a low pressure chamber to 35,000 feet and at that altitude there was collapse and various other symptoms and finally death. Mashland in the paper I just mentioned writes about the history and treatment of such collapse as may arise in such cases as these. The other two fatalities were

much of the same nature and I need not go into them. Now, I only have this one question. Are you familiar with an unpublished report by John Grey from the AAF School of Aviation Medicine, Randolph Field, Texas, of 3 October 1944, "The Present State of Decompression Sickness"? This is not a publication but an internal report. Do you know this report?

A. Dr. Grey has submitted quite a large number of reports from the School of Aviation Medicine at Randolph Field. I do not have in mind the contents of the particular report to which you are referring.

Q. I did actually name the title, and I assume that you have yourself especially concerned yourself with decompression sickness and consequently are familiar with the modern literature on the subject. This is a report "The Present Status of the Problem of Decompression Sickness".

A. I have probably read the article but I do not recall the contents under that particular title.

Q Now, do you not recall having been able to see at least between the lines in this report something about fatalities or possible fatalities?

A Well, I know that the subject of collapse after routine exposure to high altitude in the performance of high altitude tests was of special interest to the field of physiology at the school of medicine at Randolph Field. I also know of one of the occasions, at the meeting of the sub-committee on decompression sickness at which this matter of most high-altitude collapse was under discussion, Dr. Gray received his training in physiology under my instructions.

MR. HARDY: Your Honor, if the witness Ruff desires to question Dr. Ivy on this particular report of Dr. Gray, then I ask that he submit a copy of the report to Dr. Ivy so he can refresh his recollection.

THE PRESIDENT: Has the witness his copy of the report by Dr. Gray? If so, he should submit it to Dr. Ivy for identification.  
BY THE DEFENDANT RUFF:

Q We would have put this in as evidence if we had it. At the Aero-Medical Center of Heidelberg this report was available to me in 1945 and I only have the excerpt from it that I made at that time. We are trying to get the original and will then put it in as evidence.

Dr. Ivy, when you spoke of these six fatalities during training this morning, I said that not all of these fatalities took place in training or indoctrination, but let us not that in the indoctrination or training six fatalities did take place; is that not so?

A That is my recollection.

Q The people who were used for such training indoctrination were for the most part members of the Air Force; were they not?

A Yes, cadets, in the process of training.

Q Who were being trained, that they were under training means also that therefore they had received a very careful medical examination; isn't that so?

A Yes, that is correct.

Q. Now, you said this morning that in these very healthy young persons who were subjected to such an experiment for the sake of their indoctrination there was a fatality that would simply have to be taken as something done by fate. Do you know that in Germany that we carried out thousands of experiments and examinations for training purposes and that we have not had one fatality at all?

A. I did not know that you had no fatalities. I knew that you carried out training experiments in altitude chambers, but not nearly on the same scale as was carried on in the United States.

Q. In the point of numbers the United States carried out probably more experiments as compared to Germany, that is true, but we too carried out thousands of experiments without one single death. The difference in the experiments in the United States and in Germany was that in the United States, the persons being trained were subjected to 13,000 meters for a considerable length of time while in Germany they were subjected to that altitude for only ten or fifteen minutes, and I personally assume that in ...

THE PRESIDENT: You not been asking the witness questions, you have been in effect testifying, making statements yourself. If you have a question to ask the witness, propound the question to him.  
BY EXHIBIT RUFF:

Do you know wherein possibly the difference lies from the fact that you had fatalities in America and in Germany we did not?

A. The time factor was probably significant. We were training our men in long flights at high altitude and in bombers for 3, 4 and 5 hours.

Q. Now, let us turn to the last fatality, the one you mentioned yesterday, in which a major descended by parachute from a great height and died thereby. I unfortunately did not take down his name at the time. You said that this unfortunate man of course was carefully examined after his death; what killed him on the descent, what was the cause of that?



A That was uncertain, and on the basis of my knowledge of the circumstances surrounding this unfortunate death and my knowledge of the physiology changes associated with free fall through the air, I suspect that he fainted. He was very fatigued before he went to altitude and had been advised that the jump should be postponed to another day, but he went on through with the jump.

Q Was this an experiment in which at the beginning the parachute was not to be opened at the beginning of the ascent?

A Yes, so called free falling; he did not have with him an automatic parachute opening device. Now perhaps it would have been possible and already you have intimated that he was unconscious and could not operate his parachute; wasn't it just possibly namely that the opposite happened, that he opened his chute immediately or that it opened by mistake and for this reason the man fell ill of altitude sickness?

A No, in this case the parachute did not open, it was the case of Major Boyton.

Q Before this practical experiment, had you carried out a low pressure chamber experiment to determine the oxygen problem involved?

A Yes, as a matter of fact before the pre-fall experiment, which I performed in 1940 and 1941, we studied the question of oxygen requirements during free fall and we supplied our jumpers with a mask and a bail-out-bottle of oxygen.

Q I should like to anticipate a bit, Dr. Ivy, yesterday you told the Tribunal when you were asked whether our experiments for research at great height were necessary, and I shall repeat your answer more or less in its meaning, you said no that was not necessary, it could all have been calculated at the time, but you yourself carried out such experiments in order to ascertain how the oxygen situation is; why did you not rely on your calculations?

A That answer "no" pertained only to one portion of the experiments, which you did and that was slow descent from high altitude, that

is descent by early opening of the parachute.

Q. Then I misunderstood you yesterday, I understand you to mean that the free falling experiments that my colleague Romberg carried out in Dachau and are mentioned in Document No. NO-402 you consider necessary for the clarification of this problem?

A. I qualified my answer in this way and I said the slow descent experiments were unnecessary in my opinion because of the hazards they entailed and that instead of doing that particular experiment on human beings and that I should rely on results on animals and make the necessary calculations with the human beings in order to determine the amount of oxygen it would be necessary to supply under these conditions. I did not object to the other experiments you did, which I did not feel they were nearly as hazardous as the slow descent from high altitude.

Q. Very well, I shall return shortly to this question. Now you said previously to my counsel, Dr. Senter, that so far as you know explosive decompression experiments were carried out in America to the height of roughly 50,000 feet; did I understand you correctly?

A. I recall, I said 47,500, which is a little below 50,000, but approximately 50,000.

Q. Can you cite me the most recent American paper on this subject?

A. There are some preliminary reports published in the Federation proceedings for Biology in Medicine by Dr. Hitchcock. All of the results on that subject will not become available until the Committee on Decompression Sickness of the National Research Council publishes a monograph on the subject of decompression sickness and the findings made by American scientists during the war.

Q. As I understand from my examination by my counsel and by the prosecution, you were an active member of the Committee; is that so?

A. Yes.

Q. Then for certain the expert in Wright Field is known to you?

A. Yes, that is right.

Q. Would you please name him to me?

A. Dr. J. J. Smith did the first work on decompression sickness, Dr. Hitchcock of the University of Iowa collaborated with the Wright Field group and, I believe, Dr. Dempsey - I do not recall his military title. I believe he is a Lieutenant Colonel, - was interested particularly in explosive decompression.

Q. Do you know that in 1944 H. M. Sweeney reported from Wright Field on decompression?

A. That is the man's name when I said Dempsey, I got Sweeney and Dempsey mixed up.

Q. So far as we know that is the most recent American publication on explosive decompression and the limit there is stated to be roughly 50,000.

A. Yes, and it is the most complete American report and covers the most experiments, except those of Dr. Hitchcock, which have not yet been reported. Dr. Sweeney followed Dr. Smith on the work on explosive decompression in the laboratory at Wright Field.

Q. Dr. Ivy, we have been saying now for some time that explosive decompression experiments are made during indoctrination and for other purposes; would you please describe briefly to the Tribunal why this is done and why flying practice makes such explosive decompression experiments necessary?

A. The Tribunal, I believe, is familiar with the expression pressure cabins in airplanes; pressure cabins are being used to some extent on pressure plants in the United States in commercial aviation. In the pressure cabin the pressure is maintained at an altitude equivalent to that of ground or some predetermined altitude at which the administration of supplemental oxygen is unnecessary, such as 10,000 feet. We shall assume we have passengers in a pressure cabin in which pressure is being maintained at an altitude equivalent to 10,000 feet and the plane is flying at an altitude of 40,000 feet; the question arises what would happen to the passengers or occupants of the plane if

13 June 47-AFJC-26-6-Meehan (Int., Brown)  
Court I

the seal of the pressure cabin was suddenly fractured and what would be the relation of the size of the fracture in this seal to the danger of the passengers. Is that clear?

THE PRESIDENT: It is time for the evening recess. The Tribunal will be in recess until 09:30 o'clock tomorrow morning.

(The Tribunal adjourned until 14 June 1947 at 0930 hours.)



Official transcript of the American Military Tribunal in the matter of the United States of America against Karl Brandt, et al, defendants, sitting at Nurnberg, Germany, on 14 June 1947, 0930, Justice Seale presiding.

THE MARSHAL: Persons in the court room will please find their seats.

The Honorable, the Judges of Military Tribunal I.

Military Tribunal I is now in session. God save the United States of America and this honorable Tribunal.

There will be order in the court room.

THE PRESIDENT: Mr. Marshal, will you ascertain if the defendants are all present in court.

THE MARSHAL: May it please your Honor, all the defendants are present in the Court.

THE PRESIDENT: The Secretary General will note for the record the presence of all defendants in court.

Counsel, how long do you anticipate that your further cross examination of this witness will take?

DR. SAUTER: Mr. President, I estimate that Dr. Ruff will require perhaps half an hour, if the Tribunal permits. Following Dr. Ruff, I myself, should like to ask two or three more questions, so that we will be finished in about three-quarters of an hour.

THE PRESIDENT: Very well, you may have that time allocated to you.

I would ask Dr. Steinbauer — you may remain at your seat, Doctor.

DR. STEINBAUER: I believe I need about an hour.

THE PRESIDENT: Very well, an hour will be allocated to Dr. Beiglboeck.

I understand that Dr. Servatius will conduct the cross examination of the witness on at least some of the general subjects. Will any other counsel cross examine the witness upon any general matter?

DR. FLEMING: I will need about ten minutes.

THE PRESIDENT: That will be allocated to you.

DR. WELTS: I will need about a quarter of an hour.

THE PRESIDENT: Very well, that may be allocated.

Counsel may proceed.

DR. SAUTER: I should like to have Dr. Ruff ask a few more medical questions.

THE PRESIDENT: Dr. Ruff may propound the questions to the witness.

DR. ANDREW C. IVY - Resumed

CROSS EXAMINATION (Continued)

BY DR. RUFF (Defendant):

Q Dr. Ivy, yesterday you explained to the Tribunal what conditions and practices explosive decompression comes about and you had said that if a plane is flying at high altitude and the pressure cabin is damaged, this explosive decompression occurs. Now, what happens to the persons in the plane if they have survived this explosive decompression? What happens to them after that? To make the question more precise I might add the following: Let us assume that the plane is flying at 17,000 meters.

A They can either take a dive to the ground or they can bail out. In the American Air Forces they bail out, they disconnect from the oxygen supply of the plane and plug in with the oxygen supply of the bail-out bottle before leaving the plane.

Q Professor Ivy, if this explosive decompression occurs at 17,000 meters then the crew has only a very short period of time for bailing out, is that correct?

A Yes, that is correct.

Q Because even with oxygen the crew becomes unconscious very quickly at 17,000 meters, is that right?

A Yes, that is correct.

Q Could you perhaps indicate how much time passes from the

moment of explosive decompression until unconsciousness sets in -- still at 17,000 meters?

A That will depend upon the size of the fracture or damage of the plane, the rate at which the explosive decompression occurs. If it occurs relatively slowly they will be able to connect with their oxygen supply and will be able to get out of the plane before they lose consciousness in the course of perhaps 30-35 seconds. That period of time will vary.

Q Yes, I quite agree with you. Now, if we assume that a whole pane of glass is broken, if there is a comparatively large hole in the cabin, would you agree with me that this time which we in German aviation call time reserve at this altitude is about 10 or 20 seconds?

A I agree with that under those conditions.

Q Now, Professor Ivy, for reasons of aviation medicine one makes experiments with explosive decompression is it not sensible to carry out experiments on the course of the parachute descent following explosive decompression?

A Yes, I think up to a certain point.

Q Do you agree with me if I say that only explosive decompression experiments for 17,000 meters again, are senseless in practice if one does not at the same time investigate the question of rescue after explosive decompression?

A Yes, that is correct.

Q Now, Professor Ivy, in America explosive decompression experiments were carried out through about 17,000 meters--47,000 feet. Can you confirm this second part of the problem, experiments for parachute descent from such altitudes were also carried out?

A Yes, up to a certain point they were carried out but were not carried out the way you carried out your slow descents from 15 kilometers or approximately 49,000 feet, which requires subjecting the subjects to a long period of oxygen lack.

Q. The experiments to this end were not carried out in America because the American Air Force oxygen equipment is available for parachutes so that the person is equipped with oxygen after bailing out, is that correct?

A. Yes, that is correct.

Q. Now in order to avoid any misunderstanding which might arise on the basis of one question asked by the prosecutor, I ask you on the basis of theoretical calculations can binding finds be made as to the exact altitude from which oxygen equipment for a parachute is necessary?

A. An approximately correct answer can be obtained by calculations.

Q. By calculations. Would you please briefly explain to the Tribunal what physiological factors would have to be considered in such a calculation?

A. One has to consider the questions of partial pressure of oxygen in the inspired air at the various altitudes, when the subject is breathing 100% oxygen at high altitudes, you would have to consider the ambient pressure in making the calculations of the pressure of the 100% oxygen as I have indicated previously in my testimony; in order to obtain a 100% saturation of the blood with oxygen above an approximate altitude of 12,000 metres it is necessary to breathe the 100% oxygen under pressure, so that breathing 100% oxygen between an altitude of 12 kilometres and 15 kilometres there would be some under-saturation of the blood with oxygen, even though the subject were breathing 100% oxygen. That would have to be taken into consideration and the rate of fall with the parachute open would have to be taken into consideration. The only place that the blood would not be 100% saturated would be in the region above 12 kilometers. I believe that is as simple as I can make the matter.

Q. Now, Professor Ivy, you mentioned two factors which have to be



considered in these calculations. Do you agree with me if I say that in addition to these two factors, the carbon dioxide in the lungs has to be considered because this influences the amount of oxygen in the lungs?

A. That will influence. The percentage composition by the partial pressure oxygen when you breath 100% oxygen can be determined the carbon dioxide and water vapor content would have to be taken into consideration in the calculations.

Q. Yes, you mentioned a fourth factor. That is the water vapor which also has to be considered. Now the speed of occurrence of altitude sickness may be influenced by the circulation too.

A. By altitude sickness do you mean the symptoms due to lack of oxygen only?

Q. Yes, only the symptoms of lack of oxygen otherwise that becomes too complicated.

A. Yes, the circulation is a factor, but there is no reason why the circulations should be significantly disturbed due to these conditions which we are discussing.

Q. I believe you misunderstood me, Professor Ivy. I asked whether this circulation time, that is the time a particle of blood needs to go through the entire circulation once and back to the lungs, whether this time is not also a factor.

A. Yes, that's always a factor, whether we are up in the air or on the ground.

Q. Then that would be the fifth factor. Now would you agree with me again that the respiration of the aviator in question, that is, the frequency and depth of respiration is responsible, would also influence the results of the calculations?

A. Yes, that influences results of such calculations whether you are in the air or on the ground.

Q. Now, would one also not have to consider the so-called adap-

A. Yes, there is a variation in susceptibility to the oxygen lack in different individuals, but that can be determined at altitudes of 18,000 feet only.

A. I have not studied that, but I can understand its explanation physiologically.

1. Yes. I agree with that question the way you have worded it.

A. What do you mean by "holding ones breath?" You mean holding one's breath is exerting pressure?

A. Yes, to some extent, a very minor factor.

9194

A. Yes, that's true.

Q. Very well. Now, if we consider the reaction of a person at 15,000 metres and want to calculate, we have about ten factors and these ten factors vary individually. Do you believe that in view of all these factors one can come to a reasonably reliable picture through calculation of what the conditions are.

A. Yes, I do, because many of the factors are very minor, not important, or significant. I had such small factors in mind when I explained my opinion in previous testimony that I believe that it was unnecessary to place subjects to the hazard of that part of your experimental program in which the subjects were exposed to slow descent. I also stated that I should be reluctant to perform such experiments on myself or other subjects.

Q. Can you understand that German aviation medicine men held a view very different from your opinion saying that these calculations are too unsatisfactory and we are not to take the responsibility for conclusions drawn from these calculations?

A. I can understand that and I can also understand the fact that some people might be as reluctant as I would be to perform those experiments.

Q Now, Professor Ivy, another question - a question on animal experiments. From the record you have, no doubt, seen that before our experiments we carried out orientation experiments on animals. Yesterday you yourself mentioned the work of Lutz and Wendt and, if I understood you correctly, in answer to a question of Prosecution you came to the conclusion that the slight difference between results of animal experiments and human experiments does not completely justify experiments on human beings. Did I understand you correctly?

A That was my opinion as applied to this particular instance.

Q Now, Professor Ivy, do you consider the difference between 14,000 meters and 21,000 meters as a maximum altitude from which one can rescue aviators for sure? Do you consider that so slight?

A Will you repeat those figures again?

Q 14,000 meters which was the maximum height as the result of animal experiments, and 21,000 meters which was the result of our human experiments. Do you consider this difference between 14,000 meters and 21,000 meters really so slight?

A Not when that applies to slow descent with an open parachute. That doesn't apply there. No one would recommend, for example, that an aviator bail out at 21 kilometers, open up his parachute and descend. The experiments which we have under discussion involve slow descent from 15 kilometers. That's what we are talking about.

Q Professor Ivy, I quite agree with you that one cannot - one should not - carry out slow sinking experiments from 21 kilometers without oxygen and that one should recommend this to pilots. You have read our document 402 very carefully that no slow experiments without oxygen were performed from 21,000 meters.

A That's right - 15 was the height from which you performed such experiments.

Q The altitude at which we stopped and at which we said in



a report: "slow sinking experiments without oxygen from high altitude..."  
I shall quote: This is on page 82 of the English Document Book, page 19  
of the report, page 97. I quote: "Slow sinking from higher altitude  
were not carried out since in practice there is no necessity to descend  
from such altitude with an open parachute and expose oneself to the  
danger of severe freezing."

A Yes, on page 88 of document 402 you say "descending ex-  
periments were made in larger numbers from 15 kilometers altitude since  
it became evident that at this altitude the approximate limits for what  
was possible in emergencies had already been reached essentially sur-  
passed."

Now, the only point that I am making is that when those experiments  
were being done you had reached the physiological limits and were work-  
ing in a very dangerous and hazardous zone insofar as the welfare of  
your subjects was concerned. And I said that I should be reluctant to  
perform such experiments and that I should prefer to depend upon that  
degree of accuracy which I could obtain from calculations of the results  
of animal experiments.

Q Professor Ivy, do you know the state of technical devel-  
opment of high altitude flying in Germany in 1941 and 1942. That is  
the time when these experiments were carried out.

A Yes, I know something of that.

Q Then you no doubt know that at this time we had a  
fighter plane, Messerschmidt 109 which had the quality of having a  
rocket drive.

A That is correct and I know that you were ahead of us  
in our developments as far as the ejection seat is concerned.

Q Do you also agree with me that with these rocket planes  
one can reach any altitude desired and that the altitude reached de-  
pends only on the amount of fuel?

A Yes.

Q Professor Ivy, you know, you surely know, of modern de-  
9197

velopments in America in this field. Do you know the American plane type X51?

A Yes, I know something about it.

THE PRESIDENT: Can the translators get the question?

Q Professor Ivy, do you know the American plane type X51?

A I do not know it by that number.

Q It is a rocket plane with a pressure cabin which is built for a ceiling altitude of 80,000 feet.

A I know something of that.

Q Is this a plane which in principle has the same propulsion as the Messerschmidt 163 which we had in 1941 and 1942?

A I can't say yes or no to that. You are just making a statement without asking me a question.

Q I asked you, Professor Ivy, whether this X51 in principle has the same propulsion, that is rocket drive, as the Messerschmidt 163 which we had in 1941 and 1942?

A My knowledge of the engineering factors of the two planes does not permit me to say yes or no. I know that the problems of aviation medicine involved are essentially the same.

Q Very well. Your Honors, perhaps I may refer to Document 5 in the Rosenberg Document Book, Exhibit 5 in respect to this type X51. For the state of German technological development in the year 1942 I should like to refer to affidavit in Ruff Document Book No. 20, Exhibit 6, it is an affidavit of the technical officer, the General of the Fighters at the time. I may also refer to the affidavit of the Chief of the German Fighters Major General who speaks of the development at that time. This document has not been submitted yet. It will be offered to the Tribunal later.

Now, Professor Ivy, I should like to read you a few sentences from the German expert who commented on these experiments described in document 402 and I should like to ask you whether you agree with the statements of the German expert. This expert is the lecturer,

Dr. Gauer whom we unfortunately are unable to hear since at this time he is in the United States as a scientist. The statement of this expert is on page 43 of the Ruff Document Book, Document 10, that is Exhibit 14. The expert comes to the following summary of his opinion on these experiments:

- "1) The question of rescue from extremely high altitudes constituted a problem of the utmost importance for aviation medicine. The experiments yielded unexpected results which were of importance for technical development.
- "2) Experiments with animals yield no quantitative, binding values.
- "3) The experiments were carried out on a scientific basis. The experiments were discontinued after a certain practical aim had been attained. No casualties ensued.
- "4) The subjective troubles during experiments with low pressure chambers in high altitudes without oxygen are slight."

Do you agree with this opinion of the German expert?

A I agree with the opinion of the German expert that you just read with the exception of the experiments of slow descent from altitude of 15 kilometers.

Q Very well. We have already discussed that. Now, Professor Ivy, I have a few brief questions on our document 402 in another connection. You said day before yesterday that the sinking experiments were more dangerous than the free falling experiments from 21,000 meters. You said that in the sinking experiments as in all other experiments, there was no damage to the heart but that there was the possibility of damage to the brain cells. Did I understand you correctly?

A Yes.

Q You also said that the possible damage to the brain cells could have been checked.

MR. HARDY: We are not getting Dr. Ivy's answers, Your Honor.

THE PRESIDENT: Will the interpreters check the system?

BY DR. RUFF

Q Professor Ivy, would you please repeat your answer to the previous question? I asked you whether in the examination by Mr. Hardy you said that there was the possibility of damage to brain cells. Is it true that you said that?

A Yes.

Q Professor Ivy, you also said that possible damage to the brain cells by lack of oxygen could have been tested by asking intelligence questions before and after the experiments. Did I understand you correctly?

A By making the appropriate tests for ability, capacity to learn.

Q Can you cite any work where the possibility of testing brain cell damage through lack of oxygen by an intelligence test is reported on?

A That has been reported on only insofar as animals are concerned. I know of no one who has performed learning ability tests on human subjects and then have exposed them to prolonged periods of oxygen lack, such as your subjects in slow descent from high altitudes were exposed, and then follow it through with intelligence tests. But learning ability tests in animals before and after exposure to oxygen lack have been done, and it has been found that their learning ability is damaged.

Q Then I misunderstood you the day before yesterday. It was not an intelligence test, it was a limited field of learning ability which to a certain extent can be tested on animals too?

A Yes, because an intelligence test as applied by psychologists is nothing more than a test of ability to learn.

Q Professor Ivy, I do not know whether the psychologists would quite agree with your opinion, but we will leave that aside.

A You have quite a number of them to agree with that statement when I made it.



Q Professor Ivy, do you know of any case in literature where after a brief lack of oxygen, ten minutes at the most, any provable organic damage to the brain was observed?

A No. You know as well as I do that that depends upon the extent of oxygen lack and its duration. Permanent damage of the human cerebrum will occur if it is completely deprived of oxygen from five to seven minutes. That is lethal as far as the human, and I might also say the dog cerebrum is concerned. It is not necessarily lethal insofar as the vital medullary centers are concerned.

Q Professor Ivy, do you know the work of Buechner and his school on this subject?

A No.

Q Professor Buechner found, and I am certain that similar work was carried out in America too, that if one leaves animals for days and hours in such a strong lack of oxygen that they are just barely kept alive, that even after these days one can find no damage to the cerebral cortex with these animals.

A Well, that may depend upon the extent of anoxia to which they have been exposed. He probably determined just the threshold at which no damage occurred, and I have in mind, for example, experiments of Professor Wendell at North Western University where the extent of oxygen saturation of the blood for a period of several minutes was only 20 - 15, 20 or 30 per cent.

Q But as far as I remember this work in a short lack of oxygen, by this I mean a maximum of ten minutes such as occurred in our experiments in such short experiments no damage to the brain was observed, is that correct?

A No, I am not familiar with that. There are two factors concerned. One is the degree of oxygen lack, and the time. Those two factors have to be considered, and as you stated in your own report, you were working at the upper limits of what you considered to be safety.

Q Now, Professor Ivy, I am sure you know that the first damage to the

brain from anoxia and usually after a long interruption of the oxygen supply is damage to the ganglia, and especially the corpus striatum. These things are known to a far extent from chronic carbon monoxide poisoning and from literature.

A Yes, that is morphologically speaking. In such experiments learning ability tests, to my knowledge, have not been applied. There is particular reference to carbon monoxide poisoning.

Q Professor Ivy, you will no doubt agree with me that in these cases of brain damage in the area of the corpus striatum there are so-called Parkinsonianisms, Parkinsonianisms.

A That is correct. I happen to be very familiar with that subject. For example, this week at the meeting of the American Medical Association in Atlantic City, I have an exhibit on the subject of resuscitation from carbon monoxide poisoning. I happen to be the expert consultant on that subject for the Council on Physical Therapy of the American Medical Association.

Q Now, Professor Ivy, since you are especially well informed in this field; do you agree with me that this damage which appears after a long period of anoxia, these Parkinsonianisms, that they can be found in neurological tests and in the clinical aspect of the person much better than in an intelligence test?

A All patients do not manifest the symptoms of Parkinsonism or paralysis agitans. I should like to also indicate that some of the human beings and animals who have been subjected to carbon monoxide poisoning, human beings, of course, accidentally, will show a clear period after they recover consciousness of from five to ten days in which they are apparently normal. Then they will develop various manifestations of damage to the nervous system or neurological sequelae which may take the form of tremors in Parkinson's disease, may take the form of amnesia, loss of consciousness, and may be followed by death. So one might reasonably ask whether or not any of these subjects that were exposed to this anoxia as a result of slow descent showed any

symptoms after a period of from five to ten days had passed.

Q I absolutely agree with you on this point, Professor Ivy. I can tell you as far as I recall, that was not mentioned exactly in the report, that the experimental subjects who went through these sinking experiments were under observation for about six weeks afterwards, and that after six weeks the nervous system and the clinical aspect of these experimental subjects showed nothing whatever, and I believe you will agree with me if I say that with the probability bordering on certainty, that is probability which is the best which we as doctors can give, it can not be expected that these people suffered damage at any other point in the brain.

MR. MCNEANY: I object to the remarks of Dr. Ruff. He is not now testifying. He is engaged in the examination of Dr. Ivy, and I submit that he should restrict his remarks to direct questions to the witness.

THE PRESIDENT: The objection is well taken. That is merely a  
supposed true statement in testimony.

I would also call Dr. Ruff's attention to the fact that he has  
improperly assumed the task which he is not qualified to assume in relation to  
him for this examination.

Counsel:

DR. CARTER: Mr. President, I should like to ask you to admit this  
last question. It is a point which was not brought out expressly in the  
Ruff-Rodriguez-Guecher report, which was brought up only during the trial.  
Now, Dr. Ruff has had an opportunity to inform the expert - to question  
the expert on this point. If I have understood this question correctly, the  
point was that the expert has to say about the statement of my client that  
these patients were under observation for six weeks and that there was not  
the slightest change in their psychiatric condition. This question is a question  
of certain importance in the course of this trial.

THE PRESIDENT: I do not think there is anything in the record on that  
question. The witness may be asked a hypothetical question, and Dr. Ruff  
was himself asking a hypothetical question. He is not going to the stand.  
He may ask a hypothetical question of the witness.

MR. CARTER: I beg your pardon, Mr. President, I did not realize that.  
BY DR. RUFF:

Q: Professor Ivy, I have only a few very brief questions.

I believe you said yesterday that, according to present opinion,  
bonds are a result of air bubbles in the blood. Do you agree with me - or  
rather I would ask a question. Are there not air bubbles in the blood  
vessels which do not cause any damage to the system and do not cause  
any pain?

A: Yes, and there are probably air bubbles which do.

Q: On the other hand, is there pain in bonds or gas bubbles with the  
bubbles in the blood vessels or the bones which can be found - and  
bubbles which cannot be found? 2204



A: It is known that paralytic occurs in cases where gas bubbles cannot be visualized by the X-ray apparatus, but that does not mean that there are no gas bubbles present. The only conclusion permitted is that the X-ray technique does not reveal them. That is as far as we can go with these facts.

Q: Professor Ivy, what I am interested in now is the following. Is there pain or are there symptoms occurring without gas bubbles in the blood vessels?

A: No, as far as I know. It is a question that, at the present time, we cannot categorically answer "yes" or "no".

Q: Very well.

Now, you agree with it that the question of gases is not yet clear in certain cases?

A: Yes, in that the bubble theory has not been completely established but it is the theory that has the most evidence in its support and it is the only way, in my opinion, that we can explain the prevention of pressure drop sickness by the pre-breathing of oxygen for the purpose of flushing out the nitrogen from the body.

Q: In the third question I shall come to this point, but first I should like to ask another question.

Dr. Ivy, in the case of a patient who is subjected, in connection with problems, to wet or anoxic and other conditions, is it first to be assumed that these hypotheses are long a time as there is no obvious objection to them?

A: Yes.

Q: Now, Professor Ivy, you just said that one of the greatest reasons in favor of the bubble theory is the previous breathing of oxygen, and you said resuscitating this previous breathing of pure oxygen for 1 to 3 hours is sufficient to avoid the formation of bubbles in the blood or in the tissue. Did I understand you correctly?

A: Yes.

Q: Now, Professor Ivy, in connection with your examination Mr. Hardy

showed the document NO-220 of the presentation of p 30 62 of the German document book 2. Document NO 220, p 30 62, is the English version book. The 1st page of the document. It is a report from a letter to Hinkle of -A. Hinkle of the. Now Dr. Hinkle has 1st page of the document to you yesterday, an experiment of Hinkle is reported on under, after 22 hours of breathing oxygen, an experiment I suspect that 15-20 kilometers within six hours of the autopsy showed that there were no bubbles in the vessels. Now this statement of Hinkle's, which you did not object to yesterday and the document was to be, and this is not what your testimony just passed days it is, and the great amount of confusion in the field of decompression sickness?

A: No, that observation today's conduct is because obviously you know as well as I do that if the experiment is actually conducted as it is there would be no physical element of air in the gas no more. About 10 bubbles would consist primarily of a red material. You are a chemist, for example, etc. It is strange to believe, for instance of 100% oxygen, take the gas in a cylinder of 15 kilometers, and in the cylinder of 10 bubbles will be in the volume, and it certainly will be a red material.

A: Professor Ivy, I am quite well interested in this thing too. I don't know whether you know that in 1945 and 1946, together with a German at Becker-Freyburg, I worked for one year on this decompression sickness. No Professor, I have known these reports of Hinkle's reliable, not only for this trial but also we worked at that time on a scientific point of view and it is possible on the basis of the reports of Hinkle's investigation for scientist, and it seemed to us that this experiment which I have just mentioned to you Hinkle perhaps was a discovery, the significance of which he did not realize, but it seemed to us to be quite important and now we have a request to you. Can you go to the United States, test this thing again in an actual experiment and see to it that the substitution of breathing of pure oxygen is removed if Hinkle's findings are justified.

In the German Luftwaffe, by a fortunate coincidence, from the beginning of our investigations on decompression sickness for fighter planes, from the time when these mobile long pressure chambers were put into use in 1941, we set the time for the stay at 12 kilometers at 10 minutes. If you in the United States, for the time 10 to 20 minutes, I believe you will not have any more deaths which, as you are a physician at the time before, you considered a matter of fate.

I have no further to report.

BY JR. S.U. :

Mr. President, I have ... your brief number.

Likewise, you speak yesterday of a number of experiments carried out in  
 the United States and in other countries outside of Germany. For example,  
 Gallegri, using ivory, Barisani, using bone, etc. Now, I should like to have  
 a very clear answer from you on the following question. In those experiments  
 which you heard of partly from persons involved in them and partly from  
 international literature, did you use during the experiments and tests  
 of the experiments or not? For example, I ask you this question because you  
 said yesterday that because of this question you searched in international  
 literature and therefore have not an specialized knowledge on this  
 question.

As I look back at that time, I realize that I was not the man  
that you are now. I was not a good man.

So far as the subjects I have seen in the printed literature have  
 been in the American literature. There was no mention, to my knowledge,  
 in the literature on pellagra. There was no mention, to my knowledge,  
 in the literature on beriberi, in the literature on the so-called "starch" accord-  
 ing to the literature, in Colonel Stern's article on pellagra. I could not testify  
 that I have read all the articles in the medical literature involving the  
 use of base things as subjects in medical experiments.

Q: And, in the literature which you have read, witness, there is not a single case where doubts occurred? Did I understand you correctly?

A: Yes. In the yellow fever experiments I indicated that Dr. Carroll and Dr. Sengco died.

Q: That is the only case you know of?

A: That's all that I know of.

Q: And a second question, Professor.

You said yesterday that you yourself did carry out experiments in the field in question. I should like to know who supplied the experimental subjects for your experiments?

A: That's a very complicated question. When I used human subjects for experiments in a younger type of virus, I used it as an instructor, I would invite the students to serve as subjects myself. Later, I did not think it proper for me to ask the students to serve as subjects so the laboratory assistant did this. I did not ask them because, in my position, I believed they might be coerced or under duress or under some influence. I testified yesterday that I used some conscientious objectors. We applied to the Civilian Public Service Agency for permission for these subjects, through an I signed and was Council.

Q: The first agency - did I understand you correctly, was a policy agency?

A: No, the Civilian Public Service Agency. I never myself used prisoners.

Q: Then, it was the labor office. It was given to the labor office.

A: The Civilian Public Service Agency was a Division of Selective Service. They supervised the conscientious objectors and their activities.

Q: Hence, you got your people from this agency? Did you make an application? Were the people ordered to you voluntarily? How did it happen?

A: I filled out application forms to the control in office, stating the subject of the experiment to be performed, its objective, its background, the duration of the experiment, exactly how the experiment was to be performed, and its possible hazards. It stated the number of subjects desired.



Court 1

Q And this number of subjects was made available to you by this agency then?

A Yes.

Q Witness, you said yesterday that the prisoners who ordinarily had to sign a waiver according to which, if I understood you correctly, that they gave up any claim if it proved a fatality, did I understand you correctly?

A Yes, they signed an agreement, if I recall it correctly they would make plans for themselves in case of accidents.

Q Not only if they were injured, but if the accident should be a fatality?

A I believe the expression " heirs and assigns" was included, yes.

Q Then the people gave up all claims for their heirs, too. Now, witness, in your experiments did you have such waivers signed by the subjects?

A No. Our subjects, conscientious objectors, were given insurance against possible damage or injury.

Q Insurance. Why did your subjects get this insurance, and why did the prisoners have to give up all claims? Why this distinction?

A I do not know.

Q Witness, on the basis of your great experience, don't you have any idea why there was this distinction? You are an expert in all these fields.

A Well, I presume that it was out of a sympathy for the conscientious objectors. The soldiers in the army were insured by the Government, and I thought -- I should believe that might have been thought to be a good idea to insure the conscientious objectors for the same reason that they were taking experiments that had a small amount of hazard in them.

Q Was this sympathy not felt in the case of the prisoners who volunteered for experiments on behalf of the general public?

MR. LUTTY: May it please the Tribunal, Dr. Sauter discussed this point for better than an hour yesterday. I think he has covered the subject enough so that we can proceed to another point.

MR. SAUTER:

Q Doctor, you can answer this question very briefly. Was this sympathy not felt with the prisoners, too, who volunteered for experiments in the interest of the general public? Something could have happened to them, too, and they could have lost heirs, too. Why did no one think of them?

A I had nothing to do with that or determining the conditions. Thus, I can't answer the question "yes" or "no".

Q My final question, Professor. From the point of view of medical ethics do you believe whether in America or in any other civilized nation

that it is in accord with medical ethics to carry out experiments with a certain degree of danger on prisoners who are first asked to sign a waiver giving up all claims, even for their heirs? In your opinion, can that be reconciled with medical ethics?

A. Yes, I believe it can be reconciled with the basic medical ethics.

DR. SAUTER: Then I have no further questions. Thank you very much, and thank you in the name of Dr. Puff that you gave him an opportunity to ask specialized medical questions from the expert witness.

MR. KAMM: Your Honor, I request that if Dr. Ivy wishes to finish his answer, he may be allowed to do so.

THE PRESIDENT: Yes, if the witness did not complete his answer, he may complete it.

THE WITNESS: I said amen.

THE PRESIDENT: The Tribunal will be in recess for a few minutes.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Defense Counsel may proceed.

BY DR. SERVATIUS (Attorney for Defendant Earl Brandt)

Q. Witness, yesterday you testified that voluntary consent is the first prerequisite for human experimentation. Previously you had said that you yourself had been reluctant to apply for volunteers; is that so?

A. No.

Q. Didn't you say just now that you didn't want to ask your students to volunteer but left that to other agencies so that your authority might not constitute some form of coercion?

A. Yes, that is insofar as my personal direct request to the individual is concerned, I thought, because of my position as a professor, it might unduly influence the student to say yes.

Q. You were probably of the opinion that your authority might persuade him to do something that he otherwise would not do.

A. Yes -- through individual contact.

Q. I say, Professor, don't you know that in general the volunteer aspect of the person's consent has been under suspicion?

A. I don't understand that question. Will you repeat it?

Q. Is it not so that in medical circles and also in public circles that those declarations of voluntary consent are seen with a certain amount of suspicion; that it is doubted whether the person actually did volunteer?

A. Can you be more specific?

Q. In your commission you probably debated how the volunteers should be contacted; is that not so?

A. Yes.

Q. On this occasion was there not discussions of the question that you should assure yourself that no coercion was being exercised, or that the particular situation to which the person found himself who applied was being exploited?



A. Yes, I was concerned about that question.

Q. There were discussions about that?

A. Not necessarily with others, but there was always consideration of that in my own mind.

Q. Witness, number of documents were brought forth yesterday, Friday, from which it was to be seen that volunteers did volunteer, for instance eight hundred or more prisoners applied for a malaria-experiment; and there was a radio report; all of these persons had a motive for declaring themselves ready. What are the motives of a prisoner that persuade him to volunteer?

A. These prisoners said they volunteered in order to help people who might have malaria.

Q. In this report the individual persons were asked, five or six of them were --- one says that he has volunteered because he is condemned to life imprisonment, and he has applied to oblige the army. Another says that he is doing it because his brother is a soldier on the front and has malaria. And another one says --- two of my brothers in the army had malaria; and a third one says in the last war ---

MR. HARDY: Dr. Servatius refers to Prosecution Exhibit No. 519 for identification, and request that he supply the passages in that Dr. Ivy can properly testify.

BY DR. SERVATIUS:

Q. Witness, from this radio report I shall read the answers of the experimental subjects to you. One Mr. Quall is asked and he says: "I expect Captain Jones, that these men have many reasons for their volunteering for this war. Captain Jones: Yes, they have. Many have sons and brothers in the armed services, other have other patriotic motives, but I am not the one to tell about them. Quall says --- I get the point. Capt. Jones: With the permission of Warden Ranges we are going to talk to several of these volunteers right now. Here is a man who is older than some of the others. What is your name? Johnson, I am George

Johnson, number so and so. Quall: Johnson, I have heard you have a pretty high fever as a result of those tests. Johnson: That is right; at one time my temperature was 108 degrees. Quall: 108 degrees, and you are here to tell the story. Jones: That was your main reason for volunteering for these tests. Johnson: I served in the U.S. Army during the first World War, and here by going through with these tests I helped some of my buddies in the war just ended. Quall: Thanks, Johnson. Now, here is Charles Eirts, number so and so. Eirts: My brother was killed in the crossing of the Saar River; that made up my mind for me; we weren't being shot at here; it was the least we could do. Quall: And here is George Storm; George Storm, number so and so. Storm: Two of my brothers in the service caught Malaria. If I can help the army, I can help my brothers. Quall: Here is a man who is one of the many inmate nurses helping out in the war. What is your name? Leopold: Nathan Leopold, number so and so. I was a malaria volunteer, and now I am acting as a nurse. Quall: How do most of the patients react under these tests? Leopold: All the men are good soldiers; their morale is high. Quall: Now, two inmates who are no strangers to malaria — Walker: My name is George Walker, number so and so, and my nephew is a malaria patient in an army hospital. McCormack: I am James McCormack, number so and so. My brother is in the army too. If these tests will help cure him of malaria, it will all be worth while. Quall: Medical officers are particularly interested in this next case. Your name? Norman: Al Norman, number so and so. Quall: Why is your case unusual, Norman? Norman: Because I have had five relapses since I first contracted malaria; that is the highest number any patient had. I will stop here.

I shall stop reading; I believe this gives the general impression. Is it correct that all of them are giving idealistic reasons as the motive-

MR. HARDY: Prior to the question I suggest that the document be handed to Dr. Ivy if he wishes to refer to other sections of it in

his answer.

DR. SERVATIUS: I shall do so immediately; however, I have one question first.

Q. Are these not all idealistic points of view as the person's motive?

A. Yes, on the basis of my discussions with people who observed these experiments at Stateville, Illinois, the idealistic motivation of this group was very high. As a matter of fact, the effect of this public service rendered by these prisoners is being followed to see whether or not that special reformatory value, and up to the present time this question indicates that this public service has been of great reformatory value, in that the incidents of return to criminality under parole is markedly decreased.

Q. Do you know Nathan Leopold, or do you know who he is?

A. Yes.

Q. Is it true that he was condemned to fifteen years in the penitentiary for murder?

A. For much more than that.

Q. Do you think he is the right person to give an opinion regarding the high morale status of the inmates of a penitentiary?

A. He can never expect to get out of the penitentiary, and I see no reason why he should not express himself without any duress or coercion accurately and as he feels.

Q. I shall show you this report, and please ascertain if you have any remarks to make about it.

A. No, I have none.

Q. The idealistic points of view are associated with the war -- the state of war, are they not, aside from the last one?

A. No, I do not agree, because if any coercion were brought to bear upon these prisoners to serve in medical experiments, that would soon -- within a week -- come to the attention of the newspaper reporters and would appear on the front page of every paper -- most every paper in the United States.





Court 1

A. Yes, it is unpleasant, but not an evil.

Q. Perhaps we don't understand each other. You don't want to say it is a pleasure to have malaria?

A. No, it is not a pleasure.

Q. Is it not a very unpleasant and serious disease that lasts for many years?

A. It is unpleasant, yes.

Q. If all of these persons apply for idealistic reasons, why are they offered pecuniary recompense?

A. I suppose it is to serve as a small reward for the unpleasantness of the experience.

Q. Don't you believe that the money was the motive for many of them--a hundred dollars?

A. That is rather small; from the point of view of prisoners in the penitentiary in the United States, a hundred dollars isn't much money.

Q. For a prisoner that would be quite a lot of money, it seems to me, for someone at liberty it is not so much.

A. No; for prisoners in the penitentiary in the United States, when they work in factories in the prisons, receive pecuniary compensation for that work.

Q. I believe that is throughout the world.

A. That is set in a trust fund for them to use when they get out.

Q. Do you think that the money is sufficient recompense or compensation for what the experimental subject has to go through?

A. I should not consider it so, and I don't believe that any of the prisoners did. As a matter of fact, I was told that some of them would not accept the money.

Q. If one declares one's self to be a volunteer, must one not weight the advantages against the disadvantages?

A. I believe so.

Q. The disadvantage here is the risk of a serious disease, the

Q. 1

advantage is fifty-or a hundred dollars.

A. I should say the advantage is being able to serve for the good of humanity.

Q. For what reason was the money not paid immediately--but in two payments? So far as I remember from a document yesterday, the hundred dollars was paid as follows: Fifty dollars after the first month, and the other fifty after one year. In other words, a prisoner has to do his job first. Now, why was that so?

A. I presume that that is just the common way of doing business in the United States when an agreement is involved. I presume the lawyers had something to do with that.

Q. Was the reason not this: that the prisoner would lose his enthusiasm for the experiment and would cease to cooperate? Could that have been the reason for being a little circumspect in the payment?

A. I doubt that.

Q. Do you know of cases where the experimental subject did not wish to continue the experiment?

A. That has not been my experience, and according to the response that I got to that question when I put it to Dr. Irving, he said that no one expressed a desire to withdraw at any time.

Q. Professor, I have seen a document on experiments in hunger that were carried out on conscientious objectors. That appeared in a periodical. It is described how these conscientious objectors went through considerable unpleasantness and did not want to continue the experiment. They did only slight effort to continue with their promise. Is that known to you?

MR. HARDY: I suggest that Counsel refer to the document that he is talking about at this time and make it available for Dr. Ivy, or make the facts available, the particular data, so that Dr. Ivy will be fully aware of the circumstances.

Court 1

THE PRESIDENT: Does counsel have a document which he can make available? Then he will use it.

DR. SERVATIUS: I have only one copy in English here. (Presented to witness). I shall have to find the passage I am referring to.

I can't seem to find it. This is a long document and somewhere there is the statement that the experimental subjects have to summon all their forces to remain in the experiment. However, I shall drop the subject for the moment.

BY DR. SERVATIUS:

Q Witness, is there not another inducement that persuades prisoners to volunteer for experiments? Is not the prospect of pardon or other advantages the reason for applying?

A When these malaria experiments started, that prospect was not held out to the prisoners, hence the possibility of a reduction in sentence, in being placed on parole sooner than otherwise, was not a prospect. However, since some of these malaria experiments have been terminated a reduction of sentence in addition to that allowed for ordinary "good time" has been granted by the parole board.

For that reason Governor Green of the State of Illinois appointed a committee with me as Chairman to consider this question which you have in mind: How much reduction of sentence can be allowed in such instances so that the reduction in sentence will not be great enough to exert undue influence or constitute duress in obtaining volunteers. I have my conclusions ready and can read them to you, if you desire to hear them.

Q.- Please do so. May I ask when this committee was formed?

A.- The formation of the committee, according to the best of my recollection occurred in December, 1946, when the prisoners with indeterminate sentences were up for consideration for parole. This was the first time the question of reduction in sentence came up.

Q.- One more question, witness. Did the formation of this committee have anything to do with the fact that this trial is going on, or with the fact that this malaria case was published in LIFE MAGAZINE and that it was explicitly stated that the experimental subjects were receiving no compensation, no pardon, reduction of sentence? Is there any connection between those things?

A.- There is no connection between the action in this committee between the appointment of this committee and this trial, for this reason: that there is a division of opinion regarding the work that the parole boards do. Some believe that the parole boards are too soft; others believe that they are too hard. If a reduction in sentence were too great, parole boards would be criticized in the newspapers. Obviously the parole board wants to act on the basis of the best opinion on medical ethics that they can obtain. Accordingly, this committee was appointed.

Q.- Would you please be so good as to read what you intended to read?

A.- There are two conclusions:

"Conclusion I: The service of prisoners as subjects in medical ex-



Court No. 1

periments should be rewarded in addition to the ordinary good time allowed for good conduct, industry, fidelity, and courage, but the excess time rewarded should not be so great as to exert undue influence in obtaining the consent of the prisoners. To give an excessive reward would be contrary to the ethics of medicine and would debase and jeopardize a reward for doing good. Thus the amount of reduction of sentence in prison should be determined by the forbearance required, by the experiment, and the character of the prisoner. It is believed that a 100% increase in ordinary good time during the duration of the experiments would not be excessive in those experiments requiring the maximum forbearance.

"Conclusion 2: A prisoner incapable of becoming a law abiding citizen should be told in advance, if he desires to serve as a subject in a medical experiment, not to expect any reduction in sentence. A prisoner who perpetrated an atrocious crime, even though capable of becoming a law abiding citizen, should be told in advance, if he desires to serve as a subject in a medical experiment, not to expect any drastic reduction in sentence."

I might explain, when I use the expression "reduction in sentence in prison," that that implies that when the prisoner is released on parole, he is still under supervision, observation, or sentence outside of prison. He is subject to arrest and return to prison at any time; so when we say reduction of sentence in prison, we do not mean that there is an actual reduction of sentence prescribed by the court. That is the law in the State of Illinois.

Q.- And yes, if the experimental subjects are prisoners, are they told about this policy ahead of time?

A.- They will obviously have to be told of this policy from now on, since the matter has come up for the first time.

Q.- Yesterday a prosecution document was shown to you. That was Exhibit 517, Department of Justice, Bureau of Prisons, a document from

Texas. This was in no document book but was put in only yesterday. I shall have this shown to you immediately. In it it states the following: This is a form from the Department of Justice, Bureau of Prisons, a statement of voluntary consent and it says here the following:

"I agree to cooperate to the fullest extent with the physicians conducting the study during an over-all observation period of approximately 18 months. I understand that at the conclusion of the observation period, I am to be furnished with an appropriate certificate of Merit and a statement of my voluntary cooperation in the study and the fact that I have thus rendered voluntarily an outstanding service to humanity will be placed in my official record."

Is that not a rather extensive promise which might induce a prisoner to comply with it not having a purely idealistic motive?

A.- A Certificate of Merit is an attractive little certificate that the prisoner could have framed and he could hang on the wall of his prison cell. After he was released, he could take it home and show it to his friends, and I think it might serve as an incentive to lead the previous wrong-doer not to go into the ways of wrong doing again.

Q.- Do you not think that it has a very practical usefulness? Do you not think that it would lead the police to treat one a little more leniently?

A.- I doubt it, although I can't testify regarding what the police might do.

Q.- Don't you think that it would be of some aid when looking for a job after his release?

A.- When a prisoner is released on parole, before he is released, a job is found for him.

Q You try to get such a job. Do you always find one?

A He would not be released unless a job had been found for him. That is part of the penal system.

Q But, if this is a prisoner who is in prison for a specific and definite sentence and who after having served his term is released, does not this certificate of merit stand him in very good stead in his search for a job?

A I do not know that such ever occurred because we have agencies whose function it is to find jobs for prisoners released from the penitentiary so that they will not be tempted to go back into the ways of crime because the major purpose of the penal system in the United States today is reformatory rather than punitive.

Q The prisoner takes this certificate of merit with him home in order to show that he has improved and that he has voluntarily done atonement. So this does play a role, doesn't it?

A That may be one way of looking at it.

Q Was there not such a case in the first document that I showed to you, the radio report where the letter writer says, "I am condemned for life and I want to help because the Army wants me to." Was this not, also, the thought of atonement?

A I would say it was the thought of being able to do a good deed for humanity whereas in the past the individual prisoner had not performed good deeds. It may in that way be considered an atonement or expiation or expiation.

Q Was that not one of the main thoughts that the the public has, namely it is more or less demanded that a prisoner make himself available for experiments? Is not public opinion the place where you find this view represented?

A No, not at all.

Q I want to put two articles to you. You know the newspaper, The Stars and Stripes, the Army newspaper?

A I know such a paper exists, yes.

Q And do you know that it is the newspaper with the largest circulation among soldiers here in the continent?

A I don't know that but I should presume so.

Q I will put a document to you. For identification purposes it will get Exhibit number KB 113.

MR. WOOD: Your Honors, I must object to the admission of this document in evidence. This is merely an opinion of a Staff Sergeant in the United States Army in what might be the B bag section. It looks to me like a matter of that sort. I don't think it would have any value here. I might pass it up to the Tribunal for your perusal.

THE PRESIDENT: That is your theory, counsel, in considering this paper marked 301 and 113?

DR. SERVATIUS: I got this excerpt from the newspaper which is published here in Germany. I received it, it was used in another trial and I am putting it in because it seems to me its contents are material. The question is whether experiments can be carried out on prisoners from the point of view of their doing atonement. I am of the opinion that experiments carried out in Germany could be ordered by the State because urgently needed by the State and that they could be carried out as atonement in prisoner's sentences. And, in order to prove a general view and not confined to the Third Reich I am putting in this newspaper article and I also want to put in an article from an English newspaper, "The People", to the same effect. However, the English writer Llewellyn is expressing the opinion of other people without criticizing it and also says that the element of atonement plays a part.

JUDGE SEBRING: Dr. Servatius, do you maintain that the name that is supposed to be signed to this article is the name of someone who is supposed to be an authority in this subject or is supposed to represent some considerable segment of world opinion?

DR. SERVATIUS: I cannot make that statement because I do not know the man. However, this is a periodical with a great circulation and this



article went through the censorship. This then is an article regarded as pertinent in authoritative circles. Of course, this thing here aroused great excitement in SS circles and is not an article just sent in.

JUDGE SEHRING: Is it your view that you are of the opinion that this represents some considerable segment of American thought.

DR. SERVATIUS: It was so striking that it could go through the censorship which is hard for the soldiers and could appear in the country where reading of such an article would cause great excitement. The important thing is not who wrote it but the main thing is it passed the censors.

JUDGE SEHRING: What is the provocative fact sought to be elicited in presenting this thing here to the witness?

DR. SERVATIUS: I wish to put it to the witness in order to hear from him whether this also is an expression of the idea of atonement of which the witness has already spoken. And I should like to add the thought is expressed in this newspaper which is well known to us defense counsel from the main trial I.E.T. Again and again we received letters in which such things were expressed, from Germany and America. So that I say the motive of atonement is not something I pulled out of my hat but an idea readily circulated and which has wide circulation. I do not have the actual newspaper here but I have a certified copy. I am not offering it as a document I just want to read it.

THE PRESIDENT: The Tribunal will assume that this is a correct copy of what purports to be a letter printed in the Stars and Stripes. The matter is entirely without probative value. The opinion of the witness on the matter would not aid the Tribunal on the matter which is a matter of some sensational letter that was written. The Tribunal does not desire to waste any time at all on the matter. Objection is sustained.

Q Mr. President I ask permission to put to the writer a small newspaper notice from the newspaper "The People" of 3 March 1946. This is an English Newspaper. Regarding the defendants before the I.E.T the

following was stated: The opinion of some people is that they should be condemned very soon. Then it says: "Others believe that they should be made to expiate their crimes by helping to cure cancer, leprosy and tuberculosis as bodies for experiments."

Is the thought of atonement contained therein?

A Yes, but it is expressed in a hysterical manner.

Q Yes, I agree with you.

Witness, do you believe that if a person does not volunteer for an experiment the State can order such atonement?

A No.

Q Do you not believe that you can expect something of a prisoner that goes beyond his actual sentence if at the same time people outside a prison are subject to such burdens?

A No. Those ideas were given up many years ago in the science and study of penology. The primary objective of penology today is reformative not punitive, not expiatory.

Q.- Witness, is that the recognized theory of penology throughout the whole world today?

A.- It may not be the recognized theory throughout the whole world today, but it is the prevailing theory in the United States. There is one other aspect that is quite large and essential, and that is the protective aspect of imprisonment, to protect society from a habitual criminal.

Q.- Witness, if a soldier at the front is exposed to an epidemic and can be almost certain that he will catch typhus and deserts and hides behind the protecting walls of a prison, would you not consider it justifiable if he is persuaded to volunteer for an experiment that concerns itself with typhus?

A.- Will you read the question again?

Q.- If a soldier deserts from the front where typhus is raging for fear that he too will contract typhus and prefers to be imprisoned in order thus to save himself, do you think it is right for him to be persuaded while he is serving his sentence to subject himself to a typhus experiment?

A.- As a volunteer? Yes.

Q.- I see. And would you not take a step further, if this prisoner says, "No, I refuse, because if I do this there wouldn't have been any point in my deserting; I deserted in order to save myself. My buddies may die but I just would prefer not to."

A.- The answer to that question is no.

Q.- Don't you admit that one can hold a different view in this matter?

A.- Yes, but I don't believe it could be justified.

Q.- Witness, take the following case. You are in a city in which plague is raging. You, as a doctor, have a drug that you could use to combat the plague. However, you must test it on somebody. The cammarior, or let's say the mayor of the city, comes to you and says, "Here is a

Court No. 1

criminal condemned to death. Save us by carrying out the experiment on this man." Would you refuse to do so, or would you do it?

A.- I would refuse to do so, because I do not believe that duress of that sort warrants the breaking of ethical and moral principles. That is why the Hague Convention and Geneva Convention were formulated, to make war, a barbaric enterprise, a little more humane.

Q.- Do you believe that the population of a city would have any understanding for your action?

A.- They have no understanding for the importance of the maintenance of the principles of medical ethics which apply over a long period of years, rather than a short period of years. Physicians and medical scientists should do nothing with the idea of temporarily doing good which when carried out repeatedly over a period of time would debase and jeopardize a method for doing good. If a medical scientist breaks the code of medical ethics and will say, "Kill the person," in order to do what he thinks may be good, in the course of time that will grow and will cause a loss of faith of the public in the medical profession, and hence destroy the capacity of the medical profession to do its good for society. The reason that we must be very careful in the use of human beings as subjects in medical experiments is not to debase and jeopardize this method for doing great good by causing the public to react against it.

Q.- Witness, do you not believe that your ideal attitude here is more or less a single person standing against the body of public opinion?

A.- No, I do not. That is why I read the principles of medical ethics yesterday, and that is why the American Medical Association has agreed essentially with those principles. That is why the principles, the ethical principles for the use of human beings in medical experiments have been quite uniform throughout the world in the past.

Q.- Then you do not believe that the urgency, the necessity of this city would make a revision of this attitude necessary?



A.- No, not if they were in danger of killing people in the course of testing out the new drug or remedy. There is no justification in killing five people in order to save the lives of five hundred.

Q.- Then you are of the opinion that the life of the one prisoner must be preserved even if the whole city perished?

A.- In order to maintain intact the method of doing good, yes.

Q.- From the point of view of the politician, do you consider it good if he allows the city to perish in the interests of preserving this principle and preserving the life of the one prisoner?

A.- The politician, unless he knows medicine and medical ethics, has no reason to make a decision on that point.

Q.- But as a politician he must make a decision about what is to happen. Shall he order the doctor to carry out the experiment, or shall he protect the doctor from the rage of the multitude?

A.- You can't answer that question. I should say this, that there is no state or no politician under the sun that could force me to perform a medical experiment which I thought was a really unjustified.

Q.- You then, despite the order, would not carry out the order, and would prefer to be executed as a doctor?

A.- That is correct, and I know there are thousands of people in the United States who would have to do likewise.

Q.- And do you not also believe that in the course of things the population would kill the doctor who found himself in that position?

A.- I do not believe so, because they would not know. How would they know whether the doctor had a drug that would or would not relieve? The doctor would not know himself, because he would have to experiment first.

Q.- Witness, I put a hypothetical case to you. If we are to turn to reality other questions would arise. I simply want to hear now your general attitude to this problem. You are then of the opinion that a doctor should not carry out the order. And you also of the opinion that

the politician should not give such an order?

A.- Yes, I believe he should not give such an order.

Q.- Is this not a purely political decision which must be left at the discretion of the political leader?

A.- Not necessarily. He should seek the best advice that he can obtain.

Q.- If he is informed that this one experiment on this one prisoner would save the whole city, he may give the order despite the fact that the doctor does not wish to carry it out, is that what you think?

A.- He then could give the order, but if the doctor still believed that it was contrary to his moral responsibilities then the doctor should not carry out the order.

Q.- That is another question, whether or not he carries it out, but in such cases you consider it is permissible to give that order, is that what I understood you to say?

A.- After he has obtained the best advice on the subject which he can obtain.

Q.- Then he can give the order, yes or no?

A.- Yes.

DR. SERVATIUS: Mr. President, I am turning now to another theme. Perhaps this would be a good time to recess.

THE PRESIDENT: Your estimate of the time you would take to cross examine this witness was forty-five minutes, which you have now exceeded. How much longer will your cross-examination continue?

DR. SERVATIUS: Mr. President, my questions were short, but the answers were long. I have a number of questions, not too many. It does not depend on me, but I can assure that I shall be done in half an hour.

MR. HARRY: Your Honor, I might state, if you would try to determine the length of time which it will be necessary to keep Dr. Ivy on the witness stand, that the Prosecution's redirect examination will be very, very brief, if any at all.

THE PRESIDENT: I understand that Dr. Helte, on behalf of the Defendant Handloser, desires to ask some questions which he estimated at fifteen minutes. Dr. Fleming on behalf of the defendant Krugovskiy will cross-examine the witness, the doctor stated, to the extent of about fifteen minutes. Dr. Steinbauer, of course, on behalf of the Defendant Beiselbock will have cross-examination of the witness which the doctor estimated at an hour, is that correct?

DR. STEINBAUER: An hour to an hour and a half. It depends upon the answers.

THE PRESIDENT: It appear that this counsel —

DR. PRITZ (For Defendant Rose): Mr. President, I too wish to put questions to the expert witness. Roughly an hour is what I shall need.

MR. MAGUI: I thought that would be the import of the questions put to the witness by the defense counsel for Rose. I thought he would take up general questions for all counsel.

DR. TIPP (For Defendant Becker-Freytag): I shall wish to ask a few questions for Becker-Freytag, to be sure not too many. This, however, will take half an hour.

THE PRESIDENT: Unless the Tribunal is to sit this afternoon, counsel must be prepared to confine themselves to the time which they have estimated for examination on Monday. Counsel understands that if we do not hold an afternoon session today that they must be limited on their cross-examination likewise to the time which they have estimated. Do defense counsel understand that? There will be time Monday to complete the cross-examination with the understanding that defense counsel will limit themselves to the time which they have estimated. They will be held to that limit.

DR. KAUFFMANN (For Defendant Rudolf Brandt): Mr. President, I do not know whether you have included the time that I need. I shall need roughly ten minutes for Rudolf Brandt.

THE PRESIDENT: I did not know that Dr. Kauffmann was going to partici-

cipate in the examination.

It will be understood the Tribunal will not hold a session this afternoon. It will be understood the defense counsel will be limited to available time on Monday in which all defense counsel must complete their cross-examination of the witness half an hour before closing time Monday afternoon.

The Tribunal will now be in recess until nine-thirty o'clock Monday morning.

THE PRESIDING: The Tribunal will be in recess until nine-thirty o'clock Monday morning.

(The Tribunal adjourned until 16 Jun. 1947, at 0930 hours.)



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9

